This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

STANFORD LAW
LIBRARY

IN
MEMORY OF
HENRY VROOMAN

81552 v13

Southbridge Public Library.
CHARGED FOR TWO WEEKS.
May be renewed unless required by other readers.
A library card entitles the holder to draw one work of fiction and, at the same time, a reasonable number of other books.

Taken by	Due	Taken by	Due

SOUTHBRIDGE
PUBLIC LIBRARY
DISCARDED

AN
BSY
LM-11
V. 5

THE

WORKS

OF

CHARLES SUMNER.

Veniet fortasse aliud tempus, dignius nostro, quo, debellatis odiis, veritas triumphabit. Hoc mecum opta, lector, et vale.

SOUTHBRIDGE
PUBLIC LIBRARY,
DISCARDED.

VOL. XIII.

BOSTON:
LEE AND SHEPARD.
1880.

Entered according to Act of Congress, in the year 1880,
BY FRANCIS V. BALCH, EXECUTOR,
in the Office of the Librarian of Congress, at Washington.

UNIVERSITY PRESS: JOHN WILSON AND SON,
CAMBRIDGE.

CONTENTS OF VOLUME XIII.

PAGE

CHEAP OCEAN POSTAGE. Resolution in the Senate, December 7, 1868 1

THE LATE HON. THADDEUS STEVENS, REPRESENTATIVE OF PENNSYLVANIA. Remarks in the Senate on his Death, December 18, 1868 2

CLAIMS OF CITIZENS IN THE REBEL STATES. Speeches in the Senate, January 12 and 15, 1869 10

TRIBUTE TO HON. JAMES HINDS, REPRESENTATIVE OF ARKANSAS. Speech in the Senate, January 23, 1869 32

POWERS OF CONGRESS TO PROHIBIT INEQUALITY, CASTE, AND OLIGARCHY OF THE SKIN. Speech in the Senate, February 5, 1869 34

CLAIMS ON ENGLAND, — INDIVIDUAL AND NATIONAL. Speech on the Johnson-Clarendon Treaty, in Executive Session of the Senate, April 13, 1869 53

LOCALITY IN APPOINTMENT TO OFFICE. Remarks in the Senate, April 21, 1869 94

NATIONAL AFFAIRS AT HOME AND ABROAD. Speech at the Republican State Convention in Worcester, Massachusetts, September 22, 1869 98

THE QUESTION OF CASTE. Lecture delivered in the Music Hall, Boston, October 21, 1869 131

CURRENCY. Remarks in the Senate, on introducing a Bill to amend the Banking Act, and to promote the Return to Specie Payments, December 7, 1869 184

COLORED PHYSICIANS. Resolution and Remarks in the Senate, on the Exclusion of Colored Physicians from the Medical Society of the District of Columbia, December 9, 1869 186

PAGE

THE LATE HON. WILLIAM PITT FESSENDEN, SENATOR OF MAINE. Remarks in the Senate on his Death, December 14, 1869 . . 189

CUBAN BELLIGERENCY. Remarks in the Senate, December 15, 1869 . 195

ADMISSION OF VIRGINIA TO REPRESENTATION IN CONGRESS. Speeches in the Senate, January 10, 11, 12, 13, 14, 19, 21, 1870 . . 204

FINANCIAL RECONSTRUCTION AND SPECIE PAYMENTS. Speeches in the Senate. January 12, 26, February 1, March 2, 10, 11, 1870 . 234

MAJOR-GENERAL NATHANAEL GREENE, OF THE REVOLUTION. Speech in the Senate, on the Presentation of his Statue, January 20, 1870 299

PERSONAL RECORD ON RECONSTRUCTION WITH COLORED SUFFRAGE. Remarks in the Senate, January 21 and February 10, 1870 . . 303

ADMISSION OF MISSISSIPPI TO REPRESENTATION IN CONGRESS. Speech in the Senate, February 17, 1870 331

THE FIRST COLORED SENATOR. Speech in the Senate, on the Admission of Hon. Hiram R. Revels, a Colored Person, as Senator of Mississippi, February 25, 1870 336

CONSIDERATION OF TREATIES IN OPEN SENATE. Remarks in the Senate, March 17, 1870 339

ELIGIBILITY TO THE SENATE: QUESTION OF INHABITANCY. Remarks in the Senate, on the Admission of General Adelbert Ames as a Senator of Mississippi, April 1, 1870 341

RATIFICATION OF THE FIFTEENTH AMENDMENT. Speech at a Serenade before Mr. Sumner's House in Washington, April 1, 1870 . 350

ADMISSION OF GEORGIA TO REPRESENTATION IN CONGRESS. Speech in the Senate, April 5, 1870 353

INCOME TAX. Remarks in the Senate, April 7, 1870 370

MORE WORK TO BE DONE. Letter to the American Antislavery Society at its Final Meeting, April 8, 1870 375

EDUCATION. Remarks in the Senate, May 9, 1870 377

NO EXCLUSION OF RETIRED ARMY OFFICERS FROM CIVIL OFFICE. Remarks in the Senate, May 12, 1870 381

ARCTIC EXPEDITIONS. Remarks in the Senate, May 27, 1870 . . 384

PAGE

ONE CENT POSTAGE, WITH ABOLITION OF FRANKING. Speech in the Senate, June 10, 1870 387

CHINESE INDEMNITY FUND. Report in the Senate, of the Committee on Foreign Relations, June 24, 1870 445

TAX ON BOOKS. Remarks in the Senate, June 30, 1870 . . . 471

NATURALIZATION LAWS: NO DISCRIMINATION ON ACCOUNT OF COLOR. Remarks in the Senate, July 2 and 4, 1870 . . 474

SOUTHBRIDGE
PUBLIC LIBRARY
DISCARDED.

CHEAP OCEAN POSTAGE.

RESOLUTION IN THE SENATE, DECEMBER 7, 1868.

WHEREAS the inland postage on a letter throughout the United States is three cents, while the ocean postage on a similar letter to Great Britain, under a recent convention, is twelve cents, and on a letter to France is thirty cents, being a burdensome tax, amounting often to a prohibition of foreign correspondence, yet letters can be carried at less cost on sea than on land; and whereas, by increasing correspondence, and also by bringing into the mails mailable matter often now clandestinely conveyed, cheap ocean postage would become self-supporting; and whereas cheap ocean postage would tend to quicken commerce, to diffuse knowledge, to promote the intercourse of families and friends separated by the ocean, to multiply the bonds of peace and goodwill among men and nations, to advance the progress of liberal ideas, and thus, while important to every citizen, it would become the active ally of the merchant, the emigrant, the philanthropist, and the friend of liberty: Therefore

Be it resolved, That the President of the United States be requested to open negotiations with the European powers, particularly with Great Britain, France, and Germany, for the establishment of cheap ocean postage.

THE LATE HON. THADDEUS STEVENS, REPRESENTATIVE OF PENNSYLVANIA.

REMARKS IN THE SENATE ON HIS DEATH, DECEMBER 18, 1868.

MR. PRESIDENT, — The visitor to the House of Commons, as he paces the vestibule, stops with reverence before the marble statues of men who for two centuries of English history filled that famous chamber. There are twelve in all, each speaking to the memory as he spoke in life, beginning with the learned Selden and the patriot Hampden, with Falkland so sweet and loyal, Somers so great as defender of constitutional liberty, and embracing in the historic group the silver-tongued Murray, the two Pitts, father and son, masters of eloquence, Fox, always first in debate, and that orator whose speeches contribute to the wealth of English literature, Edmund Burke.

In the lapse of time, as our history extends, similar monuments will illustrate the approach to our House of Representatives, arresting the reverence of the visitor. If our group is confined to those whose fame has been won in the House alone, it will be small; for members of the House are mostly birds of passage, only perching on the way to another place. Few remain so as to become identified with the House, or their service there is forgotten in the blaze of service elsewhere, — as was the case with Madison, Marshall, Clay, Webster, and Lincoln. It is not difficult to see who will find a place

in this small company. There must be a statue of Josiah Quincy, whose series of eloquent speeches is the most complete of our history before Webster pleaded for Greece, — and also a statue of Joshua R. Giddings, whose faithful championship of Freedom throughout a long and terrible conflict makes him one of the great names of our country. And there must be a statue of THADDEUS STEVENS, who was perhaps the most remarkable character identified with the House, unless we except John Quincy Adams; but the fame of the latter is not of a Representative alone, for he was already illustrious from various service before he entered the House.

All of these hated Slavery, and labored for its overthrow. On this account they were a mark for obloquy, and were generally in a minority. Already compensation has begun. As the cause they upheld so bravely is exalted, so is their fame. By the side of their far-sighted, far-reaching, and heroic efforts, how diminutive is all that was done by others at the time! How vile the spirit that raged against them!

Stevens was a child of New England, as were Quincy and Adams; but, after completing his education, he found a home in Pennsylvania, which had already given birth to Giddings. If this great central State can claim one of these remarkable men by adoption only, it may claim the other by maternity. Their names are among its best glories.

Two things Stevens did for his adopted State, by which he repaid largely all her hospitality and favor. He taught her to cherish Education for the People, and he taught her respect for Human Rights. The latter lesson was slower learned than the former. In the prime

of life, when his faculties were in their highest vigor, he became conspicuous for earnest effort, crowned by most persuasive speech, whose echoes have not yet died away, for those Common Schools, which, more even than railways, are handmaids of civilization, besides being the true support of republican government. His powerful word turned the scale, and a great cause was won. This same powerful word was given promptly and without hesitation to that other cause, suffering then from constant and most cruel outrage. Here he stood always like a pillar. Suffice it to say that he was one of the earliest of Abolitionists, accepting the name and bearing the reproach. Not a child in Pennsylvania, conning a spelling-book beneath the humble rafters of a village school, who does not owe him gratitude; not a citizen, rejoicing in that security obtained only in liberal institutions founded on the Equal Rights of All, who is not his debtor.

When he entered Congress, it was as champion. His conclusions were already matured, and he saw his duty plain before him. The English poet foreshadows him, when he pictures

> "one in whom persuasion and belief
> Had ripened into faith, and faith become
> A passionate intuition." [1]

Slavery was wrong, and he would not tolerate it. Slave-masters, brimming with Slavery, were imperious and lawless. From him they learned to see themselves as others saw them. Strong in his cause and in the consciousness of power, he did not shrink from encounter; and when it was joined, he used not only argument and history, but all those other weapons by which a bad

[1] Wordsworth, The Excursion, Book IV. 1293-5.

cause is exposed to scorn and contempt. Nobody said more in fewer words, or gave to language a sharper bite. Speech was with him at times a cat-o'-nine-tails, and woe to the victim on whom the terrible lash descended!

Does any one doubt the justifiableness of such debate? Sarcasm, satire, and ridicule are not given in vain. They have an office to perform in the economies of life. They are faculties to be employed prudently in support of truth and justice. A good cause is helped, if its enemies are driven back; and it cannot be doubted that the supporters of wrong and the procrastinators shrank often before the weapons he wielded. Soft words turn away wrath; but there is a time for strong words as for soft words. Did not the Saviour seize the thongs with which to drive the money-changers from the Temple? Our money-changers long ago planted themselves within our temple. Was it not right to lash them away? Such an exercise of power in a generous cause must not be confounded with that personality of debate which has its origin in nothing higher than irritability, jealousy, or spite. In this sense Thaddeus Stevens was never personal. No personal thought or motive controlled him. What he said was for his country and mankind.

As the Rebellion assumed its giant proportions, he saw clearly that it could be smitten only through Slavery; and when, after a bloody struggle, it was too tardily vanquished, he saw clearly that there could be no true peace, except by new governments built on the Equal Rights of All. And this policy he urged with a lofty dogmatism as beneficent as uncompromising. The Rebels had burned his property in Pennsylvania, and there were weaklings who attributed his conduct to smart at

pecuniary loss. How little they understood his nature! Injury provokes and sometimes excuses resentment. But it was not in him to allow private grief to influence public conduct. The losses of the iron-master were forgotten in the duties of the statesman. He asked nothing for himself. He did not ask his own rights, except as the Rights of Man.

I know not if he could be called orator. Perhaps, like Fox, he were better called debater. And yet I doubt if words were ever delivered with more effect than when, broken with years and decay, he stood before the Senate and in the name of the House of Representatives and of all the people of the United States impeached Andrew Johnson, President of the United States, of high crimes and misdemeanors in office. Who can forget his steady, solemn utterance of this great arraignment? The words were few, but they will sound through the ages. The personal triumph in his position at that moment was merged in the historic grandeur of the scene. For a long time, against opposition of all kinds, against misconceptions of the law, and against apologies for transactions without apology, he had insisted on impeachment; and now this old man, tottering to your door, dragged the Chief Magistrate of the Republic to judgment. It was he who did this thing; and I should do poor justice to his life, if on this occasion I failed to declare my gratitude for the heroic deed. His merit is none the less because other influences prevailed in the end. His example will remain forever.

In the House, which was the scene of his triumphs, I never heard him but once; and I cannot forget the noble eloquence of that brief speech. I was there by accident just as he rose. He did not speak more than

ten minutes, but every sentence seemed an oration. With unhesitating plainness he arraigned Pennsylvania for her denial of equal rights to an oppressed race, and, rising with the theme, declared that this State had not a republican government.[1] His explicitness was the more striking because he was a Representative of Pennsylvania. Nobody, who has considered with any care what constitutes a republican government, especially since the definition supplied by our Declaration of Independence, can doubt that he was right. His words will live as the courageous testimony of a great character on this important question.

The last earnest object of his life was the establishment of Equal Rights throughout the whole country by the recognition of the requirement of the Declaration of Independence. I have before me two letters in which he records his convictions, which are perhaps more weighty because the result of most careful consideration, when age had furnished experience and tempered the judgment. "I have," says he, "long, and with such ability as I could command, reflected upon the subject of the Declaration of Independence, and finally have come to the sincere conclusion that Universal Suffrage was one of the inalienable rights intended to be embraced in that instrument." It is difficult to see how there can be hesitation on this point, when the great title-deed expressly says that governments derive their just powers from the consent of the governed. But this is not the only instance in which he was constrained by the habits of that profession which he practised so successfully. A great Parliamentarian of France has said:

[1] Speech on the Bill for the Admission of Nebraska, January 15, 1867: Congressional Globe, 39th Cong. 2d Sess., p. 478.

"The more one is a lawyer, the less he is a Senator," — *Plus on est avocat, moins on est Sénateur.* If Stevens reached his conclusion slowly, it was because he had not completely emancipated himself from that technical reasoning which is the boast of the lawyer rather than of the statesman. The pretension that the power to determine the "qualifications" of voters embraced the power to exclude for color, and that this same power to exclude for color was included in the asserted power of the States to make "regulations" for the elective franchise, seems at first to have deceived him; as if it were not insulting to reason and shocking to the moral sense to suppose that any unalterable physical condition, such as color of hair, eyes, or skin, could be a "qualification," — and as if it were not equally offensive to suppose, that, under a power to determine "qualifications" or to make "regulations," a race could be disfranchised. Of course this whole pretension is a technicality set up against Human Rights. Nothing can be plainer than that a technicality may be employed in favor of Human Rights, but never against them. Stevens came to his conclusion at last, and rested in it firmly. His final aspiration was to see it prevail. He had seen much for which he had striven embodied in the institutions of his country. He had seen Slavery abolished. He had seen the freedman of the National Capital lifted to equality of political rights by Act of Congress; he had seen the colored race throughout the whole land lifted to equality of civil rights by Act of Congress. It only remained that he should see them throughout the whole land lifted to the same equality in political rights; and then the promises of the Declaration of Independence would be all fulfilled. But he was called away before this final triumph.

A great writer of Antiquity, a perpetual authority, tells us that "the chief duty of friends is not to follow the departed with idle lamentation, but to remember their wishes and to execute their commands."[1] These are the words of Tacitus. I venture to add that we shall best honor him we now celebrate, if we adopt his aspiration and strive for its fulfilment.

It is as Defender of Human Rights that Thaddeus Stevens deserves homage. Here he is supreme. On other questions he erred. On the finances his errors were signal. But history will forget these and other failings, as it bends with reverence before the exalted labors by which humanity has been advanced. Already he takes his place among illustrious names which are the common property of mankind. I see him now, as so often during life. His venerable form moves slowly and with uncertain steps; but the gathered strength of years is in his countenance, and the light of victory on his path. Politician, calculator, timeserver, stand aside! A hero-statesman passes to his reward.

[1] "Non hoc præcipuum amicorum munus est, prosequi defunctum ignavo questu, sed quæ voluerit meminisse, quæ mandaverit exsequi." — TACITUS, *Annalia*, Lib. II. cap. 71.

CLAIMS OF CITIZENS IN THE REBEL STATES.

SPEECHES IN THE SENATE, JANUARY 12 AND 15, 1869.

MR. PRESIDENT, — This discussion, so unexpectedly prolonged, has already brought us to see two things, — first, the magnitude of the interests involved, and, secondly, the simplicity of the principle which must determine our judgment. It is difficult to exaggerate the amount of claims which will be let loose to feed on the country, if you recognize that now before us; nor can I imagine anything more authoritative than the principle which bars all these claims, except so far as Congress in its bounty chooses to recognize them.

By the Report of the Committee on Claims[1] it appears that the house of Miss Sue Murphey, of Decatur, Alabama, was destroyed, so that not a vestige remained, by order of the commander at that place, on the 19th March, 1864, under instructions from General Sherman to make it a military post. It is also stated that Miss Murphey was loyal. These are the important facts. Assuming the loyalty of the petitioner, which I have been led to doubt, the simple question is, whether the Nation is bound to indemnify a citizen, domiciled in a Rebel State, for property in that State, taken for the building of a fort by the United States against the Rebels.

[1] Senate Reports, 39th Cong. 1st Sess., No. 128.

Here it is proper to observe three things, — one concerning the petitioner, and two concerning the property taken: first, that the petitioner was domiciled in a Rebel State, or, to use more technical language, in a State declared by public proclamation to be in rebellion; secondly, that the property was situated within the Rebel State; and, thirdly, that the property was taken under the necessities of war, and for the national defence. On these three several points there can be no question. They are facts which have not been denied in this debate. Thus far I confine myself to a statement of facts, in order to prepare the way for the consideration of the legal consequences.

Bearing in mind these facts, several difficulties which have been presented during this debate disappear. For instance, a question was put by a learned Senator [Mr. DAVIS, of Kentucky] as to the validity of an imagined seizure of the property of the eminent Judge Wayne, situated in the District of Columbia. But it is obvious that the facts in the imagined case of the eminent judge are different from those in the actual case before us. Judge Wayne, unlike the petitioner, was domiciled in a loyal part of the country; and his property, unlike that of the petitioner, was situated in a loyal part of the country. This difference between the two cases serves to illustrate the position of the petitioner. Because property situated in the District of Columbia and belonging to a loyal judge domiciled here could not be taken, it by no means follows that property situated in a Rebel State and belonging to a person domiciled there can enjoy the same immunity.

Behind the fact of domicile, and the fact that the property was situated in a Rebel State, is that other

fact, equally incontrovertible, that it was taken in the exigencies of war. The military order under which the taking occurred declares that "the necessities of the Army require the use of every building in Decatur," — not merely the building in question, but every building; and the Report of the Committee says that "General Sherman had previously issued an order to fortify Decatur for a military post." I might quote more to illustrate this point; but I quote enough. It is plain and indisputable that the taking was under an exigency of war. To deny this is to assail the military order under which it was done, and also the Report of the Committee.

Three men once governed the mighty Roman world. Three facts govern the present case, with the power of a triumvirate, — the domicile of the petitioner, the situation of the property, and the exigency of war. If I dwell on these three facts, it is because I am unwilling that either should drop out of sight; each is important. Together they present a case which it is easy to decide, however painful the conclusion. And this brings me to the principle which I said at the beginning was so simple. Indeed, let the facts be admitted, and it is difficult to see how there can be any question in the present case. But the facts, as I have stated them, are indubitable.

On these facts two questions arise: first, as to the rule of International Law applicable to property of persons domiciled in an enemy country; and, secondly, as to the applicability of this rule to the present case. Of the rule there can be no question; its applicability is sustained by reason, and also by authority from which there can be no appeal.

In stating and enforcing the rule I might array writers, precedents, and courts; but I content myself with a paragraph from a writer who in expounding the Laws of War is perhaps the highest authority. I refer to the Dutch publicist of the last century, Bynkershoek, whose work is always quoted in the final resort on these questions. This great writer expresses himself as follows: —

"Could it be doubted whether under the name of enemies may be understood also our friends who having been conquered are with the enemy, their city perhaps being occupied by him? . . . . I should think that they also were to be so understood, certainly as regards goods which they have under the government of the enemy. . . . . I know upon what ground others say the contrary, — namely, that our friends, although they are with the enemy, have no spirit of hostility to us; for that it is not of their free will that they are there, and that it is only from the *animus* that the case is to be judged. But the case does not depend upon the *animus* alone; because neither are all the rest of our enemy's subjects, at any rate very few of them, carried away by a spirit of hostility to us; but it depends upon the right by which those goods are with the enemy, and upon the advantage which they afford him for our destruction."[1]

Nothing could be stronger in determining the liability from domicile. Its sweeping extent, under the exigency of war, is proclaimed by this same writer in words of peculiar weight: —

"Since it is the condition of war that enemies are despoiled and proscribed as to every right, it stands to reason that everything found with the enemy changes its owner and goes to the Treasury. . . . . If we follow the mere Law of War,

[1] Quæstiones Juris Publici, Lib. I. cap. 3.

even *immovable* property may be sold and its price turned into the Treasury, as in the case of movable property." [1]

Here is an austere statement; but it was adopted by Mr. Jefferson as a fundamental principle in his elaborate letter to the British Minister, vindicating the confiscation of the property of Loyalists during the Revolution.[2] It was the corner-stone of his argument, as it has since been the corner-stone of judicial decisions. To cite texts and precedents in its support is superfluous. It must be accepted as the rule of International Law.

The rule, as succinctly expressed, is simply this, — that the property of persons domiciled in an enemy country is liable to seizure and capture without regard to the alleged friendly or loyal character of the owner.

Unquestionably there are limitations imposed by humanity which must not be transcended. A country must not be wasted, or buildings destroyed, unless under some commanding necessity. This great power must not be wantonly employed. Men must not become barbarians. But, if, in the pursuit of the enemy, or for purposes of defence, property must be destroyed, then by International Law it can be done. This is the rule. Vattel, while pleading justly and with persuasive examples for the preservation of works of art, such as temples, tombs, and structures of remarkable beauty, admits that even these may be sacrificed: —

"If for the operations of war, to advance the works in a siege, it is necessary to destroy edifices of this nature, one has undoubtedly the right to do so. The sovereign of the country, or his general, destroys them indeed himself, when the necessities or the maxims of war invite thereto. The gover-

[1] Quæstiones Juris Publici, Lib. I. cap. 7.

[2] Letter to Mr. Hammond, May 29, 1792: Writings, Vol. III. p. 369.

nor of a besieged city burns its suburbs, to prevent the besiegers from obtaining a lodgment therein. Nobody thinks of blaming him who lays waste gardens, vineyards, orchards, in order to pitch his tent and intrench himself there." [1]

This same rule is recognized by Manning, in his polished and humane work, less frequently quoted, but entitled always to great respect. This interesting writer expresses himself as follows:—

"It is clearly a belligerent's right to destroy the enemy's property *as far as necessary in making fortifications*. . . . . Destruction of the enemy's property is justifiable as far as indispensable for the purposes of warfare, but no further." [2]

With the limitations which I have tried to exhibit, the rule is beyond question in the relations between nations. Do you call it harsh? Undoubtedly it is so. It is war, which from beginning to end is terrible harshness. Without the incidents sanctioned by this rule war would be changed, so that it would be no longer war. It was such individual calamities that Shakespeare had in mind, when he spoke of "the purple testament of bleeding war"; and it was such which entered into the vision of that other poet, when, in words of remarkable beauty, he pictured, by way of contrast, the blessings of peace:—

"Straight forward goes
The lightning's path, and straight the fearful path
Of the cannon-ball. Direct it flies, and rapid,
Shattering that it may reach, and shattering what it reaches.
My son! the road the human being travels,
That on which blessing comes and goes, doth follow
The river's course, the valley's playful windings,
Curves round the cornfield and the hill of vines,
Honoring the holy bounds of property;
And thus, secure, though late, leads to its end." [3]

[1] Le Droit des Gens, Liv. III. ch. 9, § 168.
[2] Law of Nations, pp. 138, 139.
[3] Coleridge, The Piccolomini, Act I. Scene 4.

It only remains now to show that this rule of International Law is applicable to the present case. Of course, our late war was not between two nations; therefore it was not strictly international. But it was between the National Government, on one side, and a Rebellion which had become "territorial" in character, with such form and body as to have belligerent rights on land. Mark the distinction, if you please; for I have always insisted, and still insist, that complete belligerency on land does not imply belligerency on the ocean. As there is a dominion of the land, so there is a dominion of the ocean; and as there is a belligerency of the land, so there is also a belligerency of the ocean. Therefore, while denying to our Rebels belligerent rights on the ocean, I have no hesitation with regard to them on the land. But just in proportion as these are admitted, is the rule of International Law made applicable to the present case.

Against our Rebels the Nation had two sources of power and two arsenals of rights, — one of these being the powers and rights of sovereignty, and the other the powers and rights of war, — the former being determined by the Constitution, the latter by International Law. The Nation might pursue a Rebel as traitor or as belligerent; but whether traitor or belligerent, he was always an enemy. Pursuing him in the courts as traitor, he was justly entitled to all the delays and safeguards of the Constitution; but it was otherwise, if he was treated as belligerent. Pursuing him in battle, driving him from point to point, dislodging him from fortresses, expelling him from towns, pushing him back from our advancing line, and then building fortifications against him, — all this was war; and it was none the less

war because the enemy was unhappily our own countryman. A new law supplied the rule for our conduct, — not the Constitution, with its manifold provisions dear to the lover of Liberty, including the solemn requirement that nobody shall "be deprived of life, liberty, or property without due process of law," and then again that other requirement, that "private property shall not be taken for public use without just compensation." All these were silent while International Law prevailed. The Rebellion had grown until it became a war; and as this war was among countrymen, it was a civil war. But the rule of conduct in a civil war is to be found in the Law of Nations.

I do not stop to quote the familiar views of publicists, especially of Vattel, to the effect that in a civil war the two parties are to be treated as "two different nations."[1] Suffice it to say, that such is the judgment of all the authorities on International Law. But I come directly to the decisions of our Supreme Court, which recognize the rule of International Law as applicable to our civil war.

In the famous cases known as the *Prize Cases*, the Court expressly says: —

"All persons residing within this territory, whose property may be used to increase the revenues of the hostile power, are in this contest liable to be treated as enemies, though not foreigners."[2]

Here is the rule of International Law applied directly to our civil war. In a later case the rule is applied with added emphasis and particularity: —

[1] Le Droit des Gens, Liv. III. ch. 18, §§ 293–5.
[2] Prize Cases: 2 Black, R., 674.

"We must be governed by the principle of public law, so often announced from this bench as applicable alike to civil and international wars, that *all the people of each State or district in insurrection against the United States must be regarded as enemies.*" [1]

Thus, according to our highest tribunal, the rule in civil war and international war is the same. By another decision of the Court, this same rule continues in force until the character of public enemy is removed by competent authority. On this point the Court declares itself as follows, in the Alexander cotton case: —

"All the people of each State or district in insurrection against the United States must be regarded as enemies, until, by the action of the Legislature and the Executive, or otherwise, that relation is thoroughly and permanently changed." [2]

If the present case is to be settled by authority, this is enough. Here is the Supreme Court solemnly recognizing the rule of International Law, even to the extent of embracing under its penalties *all the people* of the hostile community, without regard to their sentiments of loyalty. This is decisive. You cannot decree the national liability in the present case without reversing these decisions. You must declare that the rule of International Law is not applicable to our civil war. There is no ground for exception. You must reject the rule absolutely.

Do you say that its application is harsh? Of course it is. But again I say, this is war; or rather, it is rebellion which has assumed the front of war. I do not make the rule. I have nothing to do with it. I take it as I find it, affirmed by great authorities of International

[1] Mrs. Alexander's Cotton: 2 Wallace, R., 419. [2] Ibid.

Law, and reaffirmed by the Supreme Court of the United States.

Here I might stop; for the conclusion stands on reason and authority, each unanswerable; but I proceed further in order to relieve the case of all ambiguity. Of course instances may be adduced where compensation has been made to sufferers from an army, but no case like the present. If we glance at these instances, we shall see the wide difference.

1. The first instance is where property is taken by the Nation, or its representative, *within its own established jurisdiction.* Of course this is unlike that now before us. To cite it is only to perplex and mystify, not to instruct. Thus, a Senator [Mr. WILLEY, of West Virginia] has adduced well-known words from Vattel on the question, "Whether subjects should be indemnified for damages sustained in war," "as when a field, a house, or a garden, belonging to a private person, is taken for the purpose of erecting on the spot a town-rampart, or any other piece of fortification."[1] But this authority is not applicable to the present case, where the claimant is not what Vattel calls a "subject," and the property was not within the established jurisdiction of the nation. It applies only to such cases as occurred during the War of 1812, where property was taken on the Canadian frontier or at New Orleans for the erection of a fortress, — or such a case as that which formed one of the military glories of the Count Rochambeau, when at the head of the French forces in our country. The story is little known, and therefore I adduce it now, as I find it in

[1] Le Droit des Gens, Liv. III. ch. 15, § 232.

the Memoirs of Ségur, one of the brilliant officers who accompanied the expedition.

The French squadrons were quitting their camp at Crompond, near the North River, in New York, on their way to embark for France. Their commander, fresh from the victory of Yorktown, was at the head of the columns, when a simple citizen approached, and, tapping him slightly on the shoulder, said: "In the name of the law you are my prisoner." The glittering staff by which Count Rochambeau was surrounded broke forth with indignation, but the General-in-Chief restrained their impatience, and, smiling, said to the American citizen: "Take me away with you, if you can." "No," replied the simple representative of the law, "I have done my duty, and your Excellency may proceed on your march, if you wish to set justice at defiance. Some of your soldiers have cut down several trees, and burnt them to make their fires. The owner of them claims an indemnity, and has obtained a warrant against you, which I have come to execute." The Count, on hearing this explanation, which was translated by one of his staff, gave bail, and at once directed the settlement of the claim on equitable grounds. The American withdrew, and the French squadrons, which had been arrested by a simple constable, proceeded on their march. This interesting story, so honorable to our country and to the French commander, is disfigured by the end, showing extortion on the part of the claimant. A judgment by arbitration fixed the damages at four hundred dollars, being less than the commander had at once offered, while the claimant demanded no less than three thousand dollars.[1]

[1] Memoirs and Recollections of Count Ségur, (Boston, 1825,) pp. 305-6.

Afterward, in the National Assembly of France, when that great country began to throb with republican life, this instance of submission to law was mentioned with pride.[1] But though it cannot lose its place in history, it cannot furnish a precedent of International Law. Besides being without any exigency of defence, the trespass was within our own jurisdiction, in which respect it differed precisely from the case on which we are to vote. I adduce it now because it serves to illustrate vividly the line of law.

2. Another instance, which I mention in order to put it aside, is *where an army in a hostile country has carefully paid for all its supplies.* Such conduct is exceptional. The general rule was expressed by Mr. Marcy, during our war with Mexico, when he said that "an invading army has the unquestionable right to draw its supplies from the enemy without paying for them, and to require contributions for its support," that "the enemy may be made to feel the weight of the war."[2] But General Halleck, after quoting these words, says that "the resort to forced contributions for the support of our armies in a country like Mexico, under the particular circumstances of the war, would have been at least impolitic, if not unjust; and the American generals very properly declined to adopt, except to a very limited extent, the mode indicated."[3] According to this learned authority, it was a question of policy rather than of law.

The most remarkable instance of forbearance, under this head, was that of the Duke of Wellington, as he entered France with his victorious troops, fresh from the

[1] Memoirs and Recollections of Count Ségur, (Boston, 1825,) p. 304.

[2] Secretary Marcy to General Taylor, Sept. 22, 1846: Executive Documents, 30th Cong. 1st Sess., Senate, No. 1, p. 564.

[3] International Law, Ch. XIX. § 17.

fields of Spain. He was peremptory that nothing should be taken without compensation. His order on this occasion will be found at length in Colonel Gurwood's collection of his "Dispatches."[1] His habit was to give receipts for supplies, and ready money was paid in the camp. The British historian dwells with pride on the conduct of the commander, and records the astonishment with which it was regarded by both soldiers and peasantry, who found it so utterly at variance with the system by which the Spaniards had suffered and the French had profited during the Peninsular campaigns.[2] The conduct of the Duke of Wellington cannot be too highly prized. It was more than a victory. I have always regarded it as the *high-water mark* of civilized war, so far as war can be civilized. But I am obliged to add, on this occasion, that it was politic also. In thus softening the rigors of war, he smoothed the way for his conquering army. In a dispatch to one of his generals, written in the spirit of the order, he says, in very expressive language: "If we were five times stronger than we are, we could not venture to enter France, if we cannot prevent our soldiers from plundering."[3] It was in a refined policy that this important order had its origin. Regarding it as a generous example for other commanders, and offering to it my homage, I must confess, that, as a precedent, it is entirely inapplicable to the present case.

Putting aside these two several classes of cases, we are brought back to the original principle, that there

[1] Vol. XI. p. 169, note.

[2] Alison, History of Europe, (Edinburgh, 1843,) Vol. IX. p. 880.

[3] Letter to Lieut.-Gen. Sir John Hope, Oct. 8, 1813: Dispatches, Vol. XI. pp. 169–170.

can be no legal claim to damages for property situated in an enemy country, and belonging to a person domiciled there, when taken for the exigencies of war.

If the conclusion were doubtful, I should deem it my duty to exhibit at length the costly consequences from an allowance of this claim. The small sum which you vote will be a precedent for millions. If you pay Miss Sue Murphey, you must pay claimants whose name will be Legion. Of course, if justice requires, let it be done, even though the Treasury fail. But the mere possibility of such liabilities is a reason for caution on our part. We must consider the present case as if on its face it involved not merely a few thousands, but many millions. Pay it, and the country will not be bankrupt, but it will have an infinite draft upon its resources. If the occasion were not too grave for a jest, I would say of it as Mercutio said of his wound: "No, 't is not so deep as a well, nor so wide as a church-door; but 't is enough."

If you would have a practical idea of the extent of these claims, be taught by the history of the British Loyalists, who at the close of our Revolution appealed to Parliament for compensation on account of their losses. The whole number of these claims was five thousand and seventy-two. The whole amount claimed was £8,026,045, or about thirty-eight million dollars, of which the commissioners allowed less than half.[1] Our claimants would be much more numerous, and the amount claimed vaster.

We may also learn from England something of the spirit in which such claimants should be treated. Even

[1] Sabine, Loyalists of the American Revolution, (Boston, 1864,) Vol. I. p. 112.

while providing for them, Parliament refused to recognize any legal title on their part. What it did was in compassion, generosity, and bounty, — not in satisfaction of a debt. Mr. Pitt, in presenting the plan which was adopted, expressly denied any right on grounds of "strict justice." Here are his words: —

"The American Loyalists, in his opinion, could not call upon the House to make compensation for their losses as a matter of strict justice; but they most undoubtedly had strong claims on their generosity and compassion. In the mode, therefore, that he should propose for finally adjusting their claims, he had laid down a principle with a view to mark this distinction."[1]

In the same spirit Mr. Burke said: —

"Such a mode of compensating the claims of the Loyalists would do the country the highest credit. It was a new and a noble instance of national bounty and generosity."[2]

Mr. Fox, who was full of ardent sympathies, declared: —

"They were entitled to a compensation, *but by no means to a full compensation.*"[3]

And Mr. Pitt, at another stage of the debate, thus denied their claim: —

"They certainly had *no sort of claim* to a repayment of all they had lost."[4]

So far as this instance is an example to us, it is only an incentive to a kindly policy, which, after prudent in-

[1] Debate in the House of Commons, on the Compensation to the American Loyalists, June 6, 1788: Hansard's Parliamentary History, Vol. XXVII. col. 610,

[2] Ibid., col. 614. [3] Ibid., col. 616. [4] Ibid., col. 617.

quiry, and full knowledge of the extent of these claims, shall make such reasonable allowance as humanity and patriotism may require. There must be an inquiry not only into this individual case, but into all possible cases that may spring into being, so that, when we act, it may be on the whole subject.

From the beginning of our national life Congress has been called to deal with claims for losses by war. Though new in form, the present case belongs to a long list, whose beginning is hidden in Revolutionary history. The folio volume of State Papers, now before me, entitled "Claims," attests the number and variety. Even amid the struggles of the war, as early as 1779, the Rev. Dr. Witherspoon was allowed $19,040 for repairs of the college at Princeton damaged by the troops.[1] There was afterward a similar allowance to the academy at Wilmington, in Delaware, and also to the college in Rhode Island. These latter were recommended by Mr. Hamilton, while Secretary of the Treasury, as "affecting the interests of literature."[2] On this account they were treated as exceptional. It will also be observed that they concerned claimants within our own jurisdiction. But on a claim for compensation for a house burnt at Charlestown for the purpose of dislodging the enemy, by order of the American commander at that point during the Siege of Boston, a Committee of Congress in 1797 reported, that, "as Government has not adopted a general rule to compensate individuals who have suffered in a similar manner, the Committee are of opinion that the prayer of this petition cannot be granted."[3] At a later

[1] American State Papers: Claims, p. 198. [2] Ibid.
[3] Ibid., p. 199.

day, however, after successive favorable reports, the claim was finally in 1833 allowed, and compensation made to the extent of the estimated value of the property destroyed.[1]

In 1815 a claimant received compensation for a house at the end of the Potomac bridge, which was blown up to prevent certain public stores from falling into the hands of the enemy;[2] and other claimants at Baltimore received compensation for rope-walks burnt in the defence of the city.[3] The report of a committee in another case says that the course of Congress "seems to inculcate that indemnity is due to all those *whose losses have arisen from the acts of our own Government, or those acting under its authority*, while losses produced by the conduct of the enemy are to be classed among the unavoidable calamities of war."[4] This is the most complete statement of the rule which I find.

After the Battle of New Orleans the question of the application of this rule was presented repeatedly, and with various results. In one case, a claim for "a quantity of fencing" used as fuel by troops of General Jackson was paid by Congress; so also was a claim for damages to a plantation "upon which public works for the defence of the country were erected."[5] On the other hand, a claim for "an elegant and well-furnished house" which afforded shelter to the British army and was

[1] House Reports, 1830-1, No. 68; 1831-2, No. 88; 1832-3, No. 11. Act, March 2, 1833: Private Laws, p. 546.

[2] American State Papers: Claims, p. 446. Act, March 1, 1815: Private Laws, p. 151.

[3] American State Papers: Claims, p. 444. Act, February 27, 1815: Private Laws, p. 150.

[4] American State Papers: Claims, p. 462.

[5] American State Papers: Claims, p. 521. Acts, March 3, 1817: Private Laws, pp. 194, 187.

therefore fired on with hot shot, also a claim for damage to a house and plantation where a battery was erected by our troops, and on both of which claims the Committee, simultaneously with the two former, reported favorably, were disallowed by Congress.[1] In a subsequent case both the report and action seem to have proceeded on a different principle from that previously enunciated. At the landing of the enemy near New Orleans, the levee was cut in order to annoy him. As a consequence, the plantation of the claimant was inundated, and suffered damages estimated at $19,250. But the claim was rejected, on the ground that "the injury was done in the necessary operations of war."[2] Certainly this ground may be adopted in the present case, while it must not be forgotten that in all the foregoing cases the claimants were citizens within our own jurisdiction, whose property had been used against a foreign enemy.

The multiplicity of claims arising in the War of 1812 prompted an Act of Congress in 1816 for "the payment for property lost, captured, or destroyed by the enemy." In this Act it was, among other things, provided, —

"That any person, who, in the time aforesaid [the late war], has sustained damage by the destruction of his or her house or building by the enemy, while the same was occupied as a military deposit, under the authority of an officer or agent of the United States, shall be allowed and paid the amount of such damage, provided it shall appear that such occupation was the cause of its destruction."[3]

[1] American State Papers: Claims, pp. 521, 522. Annals of Congress, 14th Cong. 2d Sess., coll. 215, 1036.

[2] American State Papers: Claims, p. 835. Annals of Congress, 17th Cong. 1st Sess., col. 311.

[3] Statutes at Large, Vol. III. p. 263.

Two years later it was found, that, in order to obtain the benefits of this Act, people, especially on the frontier of the State of New York, had not hesitated at "fraud, forgery, and perhaps perjury."[1] Thereupon, the law, which by its terms was limited to two years, and which it had been proposed to extend, was permitted to expire; and it is accordingly now marked in our Statutes, "Obsolete." But it is not without its lesson. It shows what may be expected, should any precedent be adopted by Congress to quicken the claimants now dormant in the South. "It is the duty of a good Government to attend to the morals of the people as an affair of primary concern."[2] So said the Committee in 1818, recommending the non-extension of the Act. But this warning is as applicable now as then.

Among the claimants of the present day there are doubtless many of character and virtue. It is hard to vote against them. But I cannot be controlled on this occasion by my sympathies. Everywhere and in every household there has been suffering which mortal power cannot measure. Sometimes it is borne in silence and solitude; sometimes it is manifest to all. In coming into this Chamber and asking for compensation, it invites comparison with other instances. If your allowance is to be on account of merit, who will venture to say that this case is the most worthy? It is before us now for judgment. But there are others, not now before us, where the suffering has been greater, and where, I do not hesitate to say, the reward should be in proportion. This is an appeal for justice. Therefore do I say, in the name of justice, Wait!

[1] American State Papers: Claims, p. 590. [2] Ibid.

January 15th, the same bill being under discussion, Mr. Sumner spoke as follows: —

THERE is another point, on which I forbore to dwell with sufficient particularity when I spoke before. It is this: Assuming that this claimant is loyal, I honor her that she kept her loyalty under the surrounding pressure of rebellion. Of course this was her duty, — nor more nor less. The practical question is, Shall she be paid for it? Had she been disloyal, there would have been no proposition of compensation. As the liability of the Nation is urged on the single ground that she kept her regard for the flag truly and sincerely, it is evident that this loyalty must be put beyond question; it must be established like any other essential link of evidence. I think I do not err in supposing that it is not established in the present case, — at least with such certainty as to justify opening the doors of the Treasury.

But assuming that in fact the loyalty is established, I desire to go further, and say that not only is the present claim without any support in law, but it is unreasonable. The Rebel States had become one immense prison-house of Loyalty; Alabama was a prison-house. The Nation, at every cost of treasure and blood, broke into that prison-house, and succeeded in rescuing the Loyalists; but the terrible effort, which cost the Nation so dearly, involved the Loyalists in losses also. In breaking into the prison-house and dislodging the Rebel keepers, property of Loyalists suffered. And now we are asked to pay for this property damaged in our efforts for their redemption. Our troops came down to break the prison-doors and set the captives free. Is it not unreasonable to expect us to pay for this breaking?

If the forces of the United States had failed, then would these Loyalists have lost everything, country, property, and all, — that is, if really loyal, according to present professions. It was our national forces that saved them from this sacrifice, securing to them country, and, if not all their property, much of it. A part of the property of the present claimant was taken in order to save to her all else, including country itself. It was a case, such as might occur under other circumstances, where a part — and a very small part — is sacrificed in order to save the rest. According to all analogies of jurisprudence, and the principles of justice itself, the claimant can look for nothing beyond such contribution as Congress in its bounty may appropriate. It is a case of bounty, and not of law.

It is a mistake to suppose, as has been most earnestly argued, that a claimant of approved loyalty in the Rebel States should have compensation precisely like a similar claimant in a Loyal State. To my mind this assumption is founded on a misapprehension of the Constitution, the law, and the reason of the case, — three different misapprehensions. By the Constitution property cannot be taken for public use without "just compensation"; but this rule was silent in the Rebel States. International Law stepped in and supplied a different rule. And when we consider how much was saved to the loyal citizen in a Rebel State by the national arms, it will be found that this rule is only according to justice.

I have no disposition to shut the door upon claimants. Let them be heard; but the hearing must be according to some system, so that Congress shall know the character and extent of these claims. Before the motion

of my colleague,[1] I had already prepared instructions for the Committee, which I will read, as expressing my own conclusion on this matter: —

"That the committee to whom this bill shall be referred, the Committee on Claims, be instructed to consider the expediency of providing for the appointment of a commission whose duty it shall be to inquire into the claims of the loyal citizens of the National Government arising during the recent Rebellion anywhere in the United States, classifying these claims, specifying their respective amounts, and the circumstances out of which they originated, also, the evidence of loyalty adduced by the claimants respectively, to the end that Congress may know precisely the extent and character of these claims before legislating thereupon."

As this is a resolution of instruction, simply to consider the expediency of what is proposed, I presume there can be no objection to it.

Afterwards, on motion of Mr. Sumner, the bill, with all pending propositions, was recommitted to the Committee on Claims.

[1] January 14th, Mr. Wilson moved, as an amendment to the pending bill, a substitute providing for the appointment of "commissioners to examine and report all claims for quartermasters' stores and subsistence supplies furnished the military forces of the United States, during the late civil war, by loyal persons in the States lately in rebellion." — *Congressional Globe*, 40th Cong. 3d Sess., p. 359.

SOUTHBRIDGE
PUBLIC LIBRARY,
DISCARDED.

TRIBUTE TO HON. JAMES HINDS, REPRESENTATIVE OF ARKANSAS.

SPEECH IN THE SENATE, JANUARY 23, 1869.

MR. HINDS, while engaged in canvassing the State of Arkansas on the Republican side, was assassinated. The Senators of Arkansas requested Mr. Sumner to speak on the resolution announcing his death.

MR. PRESIDENT, — It is with hesitation that I add a word on this melancholy occasion, and I do it only in compliance with the suggestion of others.

I did not know Mr. Hinds personally; but I have been interested in his life, and touched by his tragical end. Born in New York, educated in Ohio, a settler in Minnesota, and then a citizen of Arkansas, he carried with him always the energies and principles ripened under our Northern skies. He became a Representative in Congress, and, better still, a vindicator of the Rights of Man. Unhappily, that barbarism which we call Slavery is not yet dead, and it was his fate to fall under its vindictive assault. Pleading for the Equal Rights of All, he became a victim and martyr.

Thus suddenly arrested in life, his death is a special sorrow, not only to family and friends, but to the country which he had begun to serve so well. The void, when a young man dies, is measured less by what he has done than by the promises of the future. Performance itself is forgotten in the ample assurance afforded by character. Already Mr. Hinds had given himself

sincerely and bravely to the good cause. By presence and speech he was urging those great principles of the Declaration of Independence whose complete recognition will be the cope-stone of our Republic, when he fell by the stealthy shot of an assassin. It was in the midst of this work that he fell, and on this account I am glad to offer my tribute to his memory.

As the life he led was not without honor, so his death is not without consolation. It was the saying of Antiquity, that it is sweet to die for country. Here was death not only for country, but for mankind. Nor is it to be forgotten, that, dying in such a cause, his living voice is echoed from the tomb. There is a testimony in death often greater than in any life. The cause for which a man dies lives anew in his death. "If the assassination could trammel up the consequence," then might the assassin find some other satisfaction than the gratification of a barbarous nature. But this cannot be. His own soul is blasted; the cause he sought to kill is elevated; and thus it is now. The assassin is a fugitive in some unknown retreat; the cause is about to triumph.

Often it happens that death, which takes away life, confers what life alone cannot give. It makes famous. History does not forget Lovejoy, who for devotion to the cause of the slave was murdered by a fanatical mob; and it has already enshrined Abraham Lincoln in holiest keeping. Another is added to the roll, — less exalted than Lincoln, less early in immolation than Lovejoy, but, like these two, to be remembered always among those who passed out of life through the gate of sacrifice.

POWERS OF CONGRESS TO PROHIBIT INEQUALITY, CASTE, AND OLIGARCHY OF THE SKIN.

SPEECH IN THE SENATE, FEBRUARY 5, 1869.

THE Senate having under consideration a joint resolution from the House of Representatives proposing an Amendment to the Constitution of the United States on the subject of Suffrage in the words following, viz.: —

"ARTICLE ——.

"SECTION 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of the race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

"SEC. 2. The Congress shall have power to enforce by proper legislation the provisions of this Article." —

Mr. Sumner offered the following bill as a substitute: —

SECTION 1. That the right to vote, to be voted for, and to hold office shall not be denied or abridged anywhere in the United States, under any pretence of race or color; and all provisions in any State Constitutions, or in any laws, State, Territorial, or Municipal, inconsistent herewith, are hereby declared null and void.

SEC. 2. That any person, who, under any pretence of race or color, wilfully hinders or attempts to hinder any citizen of the United States from being registered, or from voting, or from being voted for, or from holding office, or who attempts by menaces to deter any such citizen from the exercise or enjoyment of the rights of citizenship above mentioned, shall be punished by a fine not less than one hundred dollars nor more than three thousand dollars, or by imprisonment in the common jail for not less than thirty days nor more than one year.

SEC. 3. That every person legally engaged in preparing a register of voters, or in holding or conducting an election, who wilfully refuses to register the name or to receive, count, return, or otherwise give the proper legal effect to the vote of any citizen, under any pretence of race or color, shall be punished by a fine not less than five hundred dollars nor more than four thousand dollars, or by imprisonment in the common jail for not less than three calendar months nor more than two years.

SEC. 4. That the District Courts of the United States shall have exclusive jurisdiction of all offences against this Act; and the district attorneys, marshals, and deputy marshals, the commissioners appointed by the Circuit and Territorial Courts of the United States, with powers of arresting, imprisoning, or bailing offenders, and every other officer specially empowered by the President of the United States, shall be, and they are hereby, required, at the expense of the United States, to institute proceedings against any person who violates this Act, and cause him to be arrested and imprisoned or bailed, as the case may be, for trial before such court as by this Act has cognizance of the offence.

SEC. 5. That every citizen unlawfully deprived of any of the rights of citizenship secured by this Act, under any pretence of race or color, may maintain a suit against any person so depriving him, and recover damages in the District Court of the United States for the district in which such person may be found.

On this he spoke as follows: —

MR. PRESIDENT, — In the construction of a machine the good mechanic seeks the simplest process, producing the desired result with the greatest economy of time and force. I know no better rule for Congress on the present occasion. We are mechanics, and the machine we are constructing has for its object the conservation of Equal Rights. Surely, if we are wise, we shall seek the simplest process, producing the desired result with the greatest economy of time and force. How widely Senators are departing from this rule will appear before I have done.

Rarely have I entered upon any debate in this Chamber with a sense of sadness so heavy as oppresses me at this moment. It was sad enough to meet the champions of Slavery, as in other days they openly vindicated the monstrous pretension and claimed for it the safeguard of the Constitution, insisting that Slavery was national and Freedom sectional. But this was not so sad as now, after a bloody war with Slavery, and its de-

feat on the battle-field, to meet the champions of a kindred pretension, for which they claim the safeguard of the Constitution, insisting also, as in the case of Slavery, upon State Rights. The familiar vindication of Slavery in those early debates was less sickening than the vindication now of the intolerable pretension, that a State, constituting part of the Nation, and calling itself "Republican," is entitled to shut out any citizen from participation in government simply on account of race or color. To denominate such pretension as intolerable expresses very inadequately the extent of its absurdity, and the utterness of its repugnance to all good principles, whether of reason, morals, or government.

I make no question with individual Senators; I make no personal allusion; but I meet the odious imposture, as I met the earlier imposture, with indignation and contempt, naturally excited by anything unworthy of this Chamber and unworthy of the Republic. How it can enter here and find Senators willing to assume the stigma of its championship is more than I can comprehend. Nobody ever vindicated Slavery, who did not lay up a store of regret for himself and his children; and permit me to say now, nobody can vindicate Inequality and Caste, whether civil or political, the direct offspring of Slavery, as intrenched in the Constitution, beyond the reach of national prohibition, without laying up a similar store of regret. Death may happily come to remove the champion from the judgment of the world; but History will make its faithful record, to be read with sorrow hereafter. Do not complain, if I speak strongly. The occasion requires it. I seek to save the Senate from participation in an irrational and degrading pretension.

Others may be cool and indifferent; but I have warred

with Slavery too long, in all its different forms, not to be aroused when this old enemy shows its head under an *alias*. Once it was Slavery; now it is Caste; and the same excuse is assigned now as then. In the name of State Rights, Slavery, with all its brood of wrong, was upheld; and now, in the name of State Rights, Caste, fruitful also in wrong, is upheld. The old champions reappear under other names and from other States, each crying out, that, under the National Constitution, notwithstanding even its supplementary Amendments, a State may, if it pleases, deny political rights on account of race or color, and thus establish that vilest institution, a Caste and an Oligarchy of the Skin.

This perversity, which to careless observation seems so incomprehensible, is easily understood, when it is considered that the present generation grew up under an interpretation of the National Constitution supplied by the upholders of Slavery. State Rights were exalted and the Nation was humbled, because in this way Slavery might be protected. Anything for Slavery was constitutional. Such was the lesson we were taught. How often I have heard it! How often it has sounded through this Chamber, and been proclaimed in speech and law! Under its influence the Right of Petition was denied, the atrocious Fugitive Slave Bill was enacted, and the claim was advanced that Slavery travelled with the flag of the Republic. Vain are all our victories, if this terrible rule is not reversed, so that State Rights shall yield to Human Rights, and the Nation be exalted as the bulwark of all. This will be the crowning victory of the war. Beyond all question, the true rule under the National Constitution, especially since its additional Amendments, is, that *anything for Human Rights is*

constitutional. Yes, Sir; against the old rule, *Anything for Slavery*, I put the new rule, *Anything for Human Rights.*

Sir, I do not declare this rule hastily, and I know the presence in which I speak. I am surrounded by lawyers, and now I challenge any one or all to this debate. I invoke the discussion. On an occasion less important, Mr. Pitt, afterwards Lord Chatham, after saying that he came not "with the statute-book doubled down in dog's-ears to defend the cause of Liberty," that he relied on "a general principle, a constitutional principle," exclaimed: "It is a ground on which I stand firm, on which I dare meet any man."[1] In the same spirit I would speak now. No learning in books, no skill acquired in courts, no sharpness of forensic dialectics, no cunning in splitting hairs can impair the vigor of the constitutional principle which I announce. Whatever you enact for Human Rights is constitutional. There can be no State Rights against Human Rights; and this is the supreme law of the land, anything in the Constitution or laws of any State to the contrary notwithstanding.

A State exercises its proper function, when, within its own jurisdiction, it administers local law, watches local interests, promotes local charities, and by local knowledge brings the guardianship of Government to the home of the citizen. Such is the proper function of the State, by which we are saved from that centralization elsewhere so absorbing. But a State transcends its proper function, when it interferes with those Equal Rights,

[1] Speech in the House of Commons, January 14, 1766: Hansard's Parliamentary History, Vol. XVI. col. 104.

whether civil or political, which by the Declaration of Independence and repeated texts of the National Constitution are under the safeguard of the Nation. The State is local in character, and not universal. Whatever is justly local belongs to its cognizance; whatever is universal belongs to the Nation. But what can be more universal than the Rights of Man? They are for "all men," — not for all white men, but for all men. Such they have been declared by our fathers, and this axiom of Liberty nobody can dispute.

Listening to the champions of Caste and Oligarchy under the National Constitution, and perusing their writings, I think I understand the position they take. With as much calmness as I can command, I note what they have to say in speech and in print. I know it all. I do not err, when I say that this whole terrible and ignominious pretension is traced to direct and barefaced perversion of the National Constitution. Search history, study constitutions, examine laws, and you will find no perversion more thoroughly revolting. By the National Constitution it is provided, that "the electors in each State shall have the *qualifications* requisite for electors of the most numerous branch of the State Legislature," — thus seeming to refer the primary determination of what are called "qualifications" to the States; and this is reinforced by the further provision, that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such *regulations*." This is all. On these simple texts, conferring plain and intelligible powers, the champions insist that "color" may be made

a "qualification," and that under the guise of "regulations" citizens whose only offence is a skin not colored like our own may be shut out from political rights, — and that in this way a monopoly of rights, being at once a Caste and an Oligarchy of the Skin, is placed under the safeguard of the National Constitution. Such is the case of the champions; this is their stock-in-trade. With all their learning, all their subtlety, all their sharpness, this is what they have to say in behalf of an infamous pretension under the National Constitution. Everything from them begins and ends in a perversion of two words, — "qualifications" and "regulations."

Now to this perversion I oppose point-blank denial. These two words are not justly susceptible of any such signification, especially in a National Constitution, which is to be interpreted always so that Human Rights shall not suffer. I do not stop now for dictionaries. The case is too plain. A "qualification" is something that can be acquired. A man is familiarly said to "qualify" for an office. Nothing can be a "qualification" which is not in its nature attainable, — as residence, property, education, or character, each of which is within the possible reach of well-directed effort. Color cannot be a "qualification." If the prescribed "qualification" were color of the hair or color of the eyes, all would see its absurdity; but it is none the less absurd, when it is color of the skin. Here is an unchangeable condition, impressed by Providence. Are we not reminded that the leopard cannot change his spots, or the Ethiopian his skin? These are two examples of enduring conditions. Color is a quality from Nature. But a "quality" is very different from a "qualification." A quality inherent in man and part of himself can never be a "qualification" in the

sense of the National Constitution. On other occasions I have cited authorities,[1] and shown how this attempt to foist into the National Constitution a pernicious meaning is in defiance of all approved definition, as it is plainly repugnant to reason, justice, and common sense.

The same judgment must be pronounced on the attempt to found this outrage upon the power to make "regulations," — as if this word had not a limited signification which renders such a pretension impossible. "Regulations" are nothing but rules applicable to a given matter; they concern the manner in which a business shall be conducted, and, when used with regard to elections, are applicable to what may be called incidents, in contradistinction to the principal, which is nothing less than the right to vote. A power to regulate is not a power to destroy or to disfranchise. In an evil hour Human Rights may be struck down, but it cannot be merely by "regulations." The pretension that under such authority this great wrong may be done is another illustration of that extravagance which the champions do not shrink from avowing.

The whole structure of Caste and Oligarchy, as founded on two words, may be dismissed. It is hard even to think of it without impatience, to speak of it without denouncing it as unworthy of human head or human heart. There are honorable Senators who shrink from any direct argument on these two words, and, wrapping themselves in pleonastic phrase, content themselves with

[1] Speeches in the Senate on "Political Equality without Distinction of Color," March 7, 1866, and the "Validity and Necessity of Fundamental Conditions on States," June 10, 1868: *Ante*, Vol. X. pp. 307–9; Vol. XII. pp. 430–3.

the general assertion, that power over suffrage belongs to the States. But they cannot maintain this conclusion without founding on these two words, — insisting that color may be a "qualification," and that under the narrow power to make "regulations" a race may be broadly disfranchised. To this wretched pretension are they driven. And now, if there be any such within the sound of my voice, I ask the question directly, — Can "color," whether of hair, eyes, or skin, be a "qualification" under our National Constitution? under the pretence of making "regulations" of elections, can a race be disfranchised? With all the power derived from both these words, can any State undertake to establish a Caste and organize an Oligarchy of the Skin? To put these questions is to answer them.

Such is the case as presented by the champions. But looking at the National Constitution, we shall be astonished still more at this pretension. On other occasions I have gone over the whole case of Human Rights *vs.* State Rights under the National Constitution. For the present I content myself with allusions only to the principal points.

It is under the National Constitution that the champions set up their pretension; therefore to the National Constitution I go. And I begin by appealing to the letter, which from beginning to end does not contain one word recognizing "color." Its letter is blameless; and its spirit is not less so. Surely a power to disfranchise for color must find some sanction in the Constitution. There must be some word of clear intent under which this terrible prerogative can be exercised. This conclusion of reason is reinforced by the positive text

of our Magna Chartà, the Declaration of Independence, where it is expressly announced that all men are equal in rights, and that just government stands only on the consent of the governed. In the face of the National Constitution, interpreted, first by itself, and then by the Declaration of Independence, how can this pretension prevail?

But there are positive texts of the National Constitution, refulgent as the Capitol itself, which forbid it with sovereign, irresistible power, and invest Congress with all needful authority to maintain the prohibition.

There is that key-stone clause, by which it is expressly declared that "the United States shall guaranty to every State in this Union a republican form of government"; and Congress is empowered to enforce this guaranty. The definition of a republican government was solemnly announced by our fathers, first, in that great battle-cry which preceded the Revolution, "Taxation without representation is tyranny," and, secondly, in the great Declaration at the birth of the Republic, that all men are equal in rights, and that just government stands only on the consent of the governed. A Republic is where taxation and representation go hand in hand, where all are equal in rights, and no man is excluded from participation in the government. Such is the definition of a republican government, which it is the duty of Congress to maintain. Here is a bountiful source of power, which cannot be called in question. In the execution of the guaranty Congress may — nay, must — require that there shall be no Inequality, Caste, or Oligarchy of the Skin.

I know well the arguments of the champions. They insist that the definition of a Republican Government is to be found in the State Constitutions at the adoption

of the National Constitution; and as all these, except Massachusetts, recognized Slavery, they find that the denial of Human Rights is republican. But the champions forget that Slavery was regarded as a temporary exception, — that the slave, who was not represented, was not taxed, — that he was not part of the "body-politic," — that the difference at that time was not between white and black, but between slave and freeman, precisely as in the days of Magna Charta, — that in most of the States all freemen, without distinction of color, were citizens, — and that, according to the history of the times, there was no State which ventured to announce in its Constitution a discrimination founded on color, except Virginia, Georgia, and South Carolina, — this last the persevering enemy of republican government for successive generations; so that, if we look at the State Constitutions, we find that they also testify to the true definition.

There are words of authority which the champions forget also. They forget Magna Charta, that great title-deed called "the most august diploma and sacred anchor of English liberties," where, after declaring that "there shall be but *one measure* throughout the realm,"[1] it is announced in memorable words, that "*no freeman* shall be disseized of his freehold or liberties but by legal judgment of his peers or by the law of the land,"[2] meaning, of course, the law of the whole land, *in contradistinction to any local law.* The words with which this great guaranty begin still resound: *Nullus liber homo*, "No freeman," shall be denied the liberties which belong to freemen.

The champions also forget that "The Federalist," in

[1] Chap. XXV., Title. [2] Chap. XXIX.

commending the Constitution, at the time of its adoption, insisted, that, if the slaves became free, they would be entitled to representation. I have quoted the potent words before,[1] and now I quote them again: —

"It is only under the pretext that the laws have transformed the negroes into subjects of property, that a place is denied to them in the computation of numbers; and it is admitted, that, if the laws were to restore the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants."[2]

The champions also forget, that, in the debates on the ratification of the National Constitution, it was charged by its opponents, and admitted by its friends, that Congress was empowered to correct any inequality of suffrage. I content myself with quoting the weighty words of Madison in the Virginia Convention: —

"Some States might regulate the elections on the principles of *Equality*, and others might regulate them otherwise. .... Should the people of any State by any means be deprived of the right of suffrage, *it was judged proper that it should be remedied by the General Government*. .... If the elections be regulated properly by the State Legislatures, the Congressional control will very probably never be exercised. The power appears to me satisfactory, and as unlikely to be abused as any part of the Constitution."[3]

The champions also forget that Chief Justice Taney, in that very Dred Scott decision where it was ruled that a person of African descent could not be a citizen of the

[1] Speech in the Senate, February 5 and 6, 1866: *Ante*, Vol. X. p. 184.

[2] The Federalist, No. LIV., by Alexander Hamilton. — Concerning the authorship of this paper, see the Historical Notice, by J. C. Hamilton, pp. xcv-cvi, and cxix-cxxvii, prefixed to his edition of the Federalist (Philadelphia, 1864).

[3] Elliot's Debates, (2d edit.,) Vol. III. p. 367.

United States, admitted, that, if he were once a citizen, that is, if he were once admitted to be a component part of the body-politic, he would be entitled to the equal privileges of citizenship. Here are some of his emphatic words: —

"There is not, it is believed, to be found in the theories of writers on Government, or in any actual experiment heretofore tried, an exposition of the term *citizen* which has not been understood as conferring *the actual possession and enjoyment, or the perfect right of acquisition and enjoyment, of an entire equality of privileges, civil and political.*" [1]

Thus from every authority, early and late, — from Magna Charta, wrung out of King John at Runnymede, — from Hamilton, writing in "The Federalist," — from Madison, speaking in the Convention at Richmond, — from Taney, presiding in the Supreme Court of the United States, — is there one harmonious testimony to the equal rights of citizenship.

If in the original text of the Constitution there could be any doubt, it was all relieved by the Amendment abolishing Slavery and empowering Congress to enforce this provision. Already Congress, in the exercise of this power, has passed a *Civil Rights Act.* It only remains that it should now pass a *Political Rights Act*, which, like the former, shall help consummate the abolition of Slavery. According to a familiar rule of interpretation, expounded by Chief Justice Marshall in his most masterly judgment, Congress, when intrusted with any power, is at liberty to select the "means" for its execution.[2] The Civil Rights Act came under the head of

[1] 19 Howard, R., 476.

[2] M'Culloch *v.* State of Maryland: 4 Wheaton, R., 408-21.

"means" selected by Congress, and a Political Rights Act will have the same authority. You may as well deny the constitutionality of the one as of the other.

The Amendment abolishing Slavery has been reinforced by another, known as Article XIV., which declares peremptorily that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States," and again Congress is empowered to enforce this provision. What can be broader? Colored persons are citizens of the United States, and no State can abridge their privileges or immunities. It is a mockery to say, that, under these explicit words, Congress is powerless to forbid any discrimination of color at the ballot-box. Why, then, were they inscribed in the Constitution? To what end? There they stand, supplying additional and supernumerary power, ample for safeguard against Caste or Oligarchy of the Skin, no matter how strongly sanctioned by any State Government.

But the champions, anxious for State Rights against Human Rights, strive to parry this positive text, by insisting, that, in another provision of this same Amendment, the power over the right to vote is conceded to the States. Mark, now, the audacity and fragility of this pretext. It is true, that, "when the right to vote .... is denied to any of the male inhabitants of a State, ... or in any way abridged, except for participation in rebellion or other crime," the basis of representation is reduced in corresponding proportion. Such is the penalty imposed by the Constitution on a State which denies the right to vote, except in a specific case. But this penalty on the State does not in any way, by the most distant implication, impair the plenary powers of Con-

gress to enforce the guaranty of a republican government, the abolition of Slavery, and that final clause guarding the rights of citizens, — three specific powers which are left undisturbed, unless the old spirit of Slavery is once more revived, and Congress is compelled again to wear those degrading chains which for so long a time rendered it powerless for Human Rights.

The pretension, that the powers of Congress, derived from the Constitution and its supplementary texts, were all foreclosed, and that the definition of a republican government was dishonored, merely by the indirect operation of the clause imposing a penalty upon a State, is the last effort of the champions. They are driven to the assumption, that all these beneficent powers have been taken away by indirection, and that a provision evidently temporary and limited can have this overwhelming consequence. They set up a technical rule of law, "*Expressio unius est exclusio alterius.*" It is impossible to see the application of this technicality. Because the basis of representation is reduced in proportion to any denial of the right to vote, therefore, it is argued, the denial of the right to vote is placed beyond the reach of Congress, notwithstanding all its plenary powers from so many sources. It is enough to say of this conclusion, that it is as strong as anything founded on the "argal" of the grave-digger in "Hamlet." Really, Sir, it is too bad that so great a cause should be treated with such levity.

Mr. President, I make haste to the conclusion. Unwilling to protract this debate, I open the question in glimpses only. Even in this imperfect way, it is clearly seen, first, that there is nothing, absolutely nothing, in

the National Constitution to sustain the pretension of Caste or Oligarchy of the Skin, as set up by certain States, — and, secondly, that there is in the National Constitution a succession and reduplication of powers investing Congress with ample authority to repress any such pretension. In this conclusion, I raise no question on the power of States to regulate the suffrage; I do not ask Congress to undertake any such regulation. I simply propose, that, under the pretence of regulating the suffrage, States shall not exercise a prerogative hostile to Human Rights, without any authority under the National Constitution, and in defiance of its positive texts.

I am now brought directly to the proposed Amendment of the Constitution. Of course, the question stares us in the face, Why amend what is already sufficient? Why erect a supernumerary column?

So far as I know, two reasons are assigned. The first is, that the power of Congress is doubtful. It is natural that those who do not sympathize strongly with the Equal Rights of All should doubt. Men ordinarily find in the Constitution what is in themselves; so that the Constitution in its meaning is little more than a reflection of their own inner nature. As I am unable to find any ground of doubt, in substance or even in shadow, I shrink from a proposition which assumes that there is doubt. To my mind the power is too clear for question. As well question the obligation of Congress to guaranty a republican form of government, or the abolition of Slavery, or the prohibition upon States to interfere with the rights and privileges of citizenship, each of which is beyond question.

Another reason assigned for a Constitutional Amendment is, its permanent character in comparison with an Act of Congress, which may be repealed. On this head I have no anxiety. Let this beneficent prohibition once find place in our statute-book, and it will be lasting as the National Constitution itself, to which it will be only a legitimate corollary. In harmony with the Declaration of Independence, and in harmony with the National Constitution, it will become of equal significance, and no profane hand will touch its sacred text. It will never be repealed. The elective franchise, once recognized, can never be denied, — once conferred, can never be resumed. The rule of Equal Rights, once applied by Congress under the National Constitution, will be a permanent institution as long as the Republic endures; for it will be a vital part of that Republican Government to which the nation is pledged.

Dismissing the reasons for the Amendment, I turn to those which make us hesitate. There are two. The Amendment admits, that, under the National Constitution as it is, with its recent additions, a Caste and an Oligarchy of the Skin may be set up by a State without any check from Congress; that these ignoble forms of inequality are consistent with republican government; and that the right to vote is not an existing privilege and immunity of citizenship. All this is plainly admitted by the proposed Amendment, — thus despoiling Congress of beneficent powers, and emasculating the National Constitution itself. It is only with infinite reluctance that I consent to any such admission, which, in the endeavor to satisfy ungenerous scruples, weakens all those texts which are so important for Human Rights.

The hesitation to present the Amendment is increased, when we consider the difficulties in the way of its ratification. I am no arithmetician, but I understand that nobody has yet been able to enumerate the States whose votes can be counted on to assure its ratification within any reasonable time. Meanwhile this great question, which cannot brook delay, which for the sake of peace and to complete Reconstruction should be settled at once, is handed over to prolonged controversy in the States. I need not depict the evils which must ensue. A State will become for the time a political caldron, into which will be dropped all the poisoned ingredients of prejudice and hate, while a powerful political party, chanting, like the Witches in "Macbeth,"

> "Double, double, toil and trouble;
> Fire, burn; and, caldron, bubble,"

will use this very Amendment as the pudding-stick with which to stir the bubbling mass. Such a controversy should be avoided, if possible; nor should an agitation so unwelcome and so sterile be needlessly invited. "Let us have peace."

Of course, if there were no other way of accomplishing the great result, the Amendment should be presented, even with all its delays, uncertainties, and provocations to local strife. But happily all these are unnecessary. The same thing may be accomplished by Act of Congress, without any delay, without any uncertainty, and without any provocation to local strife. The same vote of two thirds required for the presentation of the Amendment will pass the Act over the veto of the President. Once adopted, it will go into instant operation, without waiting for the uncertain concurrence of State Legislatures, and without provoking local strife so wearisome to

the country. The States will not be turned into political caldrons, and the Democratic party will have no pudding-stick with which to stir the bubbling mass.

I do not depart from the proprieties of this occasion, when I show how completely the course I now propose harmonizes with the requirements of the political party to which I belong. Believing most sincerely that the Republican party, in its objects, is identical with country and with mankind, so that in sustaining it I sustain these comprehensive charities, I cannot willingly see this agency lose the opportunity of confirming its supremacy. You need votes in Connecticut, do you not? There are three thousand fellow-citizens in that State ready at the call of Congress to take their place at the ballot-box. You need them also in Pennsylvania, do you not? There are at least fifteen thousand in that great State waiting for your summons. Wherever you most need them, there they are; and be assured they will all vote for those who stand by them in the assertion of Equal Rights. In standing by them you stand by all that is most dear in the Republic.

Pardon me, — but, if you are not moved by considerations of justice under the Constitution, then I appeal to that humbler motive which is found in the desire for success. Do this and you will assure the triumph of all that you can most desire. Party, country, mankind, will be elevated, while the Equal Rights of All will be fixed on a foundation not less enduring than the Rock of Ages.

The bill offered by Mr. Sumner as a substitute for the original joint resolution was rejected; and the latter, embodying the proposed Amendment to the Constitution, failed for want of the requisite two-thirds of the votes cast, — these standing, Yeas 31, Nays 27.

CLAIMS ON ENGLAND, — INDIVIDUAL AND NATIONAL.

SPEECH ON THE JOHNSON-CLARENDON TREATY, IN EXECUTIVE SESSION OF THE SENATE, APRIL 13, 1869.

MR. PRESIDENT, — A report recommending that the Senate do not advise and consent to a treaty with a foreign power, duly signed by the plenipotentiary of the nation, is of rare occurrence. Treaties are often reported with amendments, and sometimes without any recommendation; but I do not recall an instance, since I came into the Senate, where such a treaty has been reported with the recommendation which is now under consideration. The character of the treaty seemed to justify the exceptional report. The Committee did not hesitate in the conclusion that it ought to be rejected, and they have said so.

I do not disguise the importance of this act; but I believe that in the interest of peace, which every one should have at heart, the treaty must be rejected. A treaty, which, instead of removing an existing grievance, leaves it for heart-burning and rancor, cannot be considered a settlement of pending questions between two nations. It may seem to settle them, but does not. It is nothing but a snare. And such is the character of the treaty now before us. The massive grievance under which our country suffered for years is left untouched; the painful sense of wrong planted in the national heart

is allowed to remain. For all this there is not one word of regret, or even of recognition; nor is there any semblance of compensation. It cannot be for the interest of either party that such a treaty should be ratified. It cannot promote the interest of the United States, for we naturally seek justice as the foundation of a good understanding with Great Britain; nor can it promote the interest of Great Britain, which must also seek a real settlement of all pending questions. Surely I do not err, when I say that a wise statesmanship, whether on our side or on the other side, must apply itself to find the real root of evil, and then, with courage tempered by candor and moderation, see that it is extirpated. This is for the interest of both parties, and anything short of it is a failure. It is sufficient to say that the present treaty does no such thing, and that, whatever may have been the disposition of the negotiators, the real root of evil remains untouched in all its original strength.

I make these remarks merely to characterize the treaty and prepare the way for its consideration.

THE PENDING TREATY.

If we look at the negotiation which immediately preceded the treaty, we find little to commend. You have it on your table. I think I am not mistaken, when I say that it shows a haste which finds few precedents in diplomacy, but which is explained by the anxiety to reach a conclusion before the advent of a new Administration. Mr. Seward and Mr. Reverdy Johnson unite in this unprecedented activity, using the Atlantic cable freely. I should not object to haste, or to the freest use

of the cable, if the result were such as could be approved; but, considering the character of the transaction, and how completely the treaty conceals the main cause of offence, it seems as if the honorable negotiators were engaged in huddling something out of sight.

The treaty has for its model the Claims Convention of 1853. To take such a convention as a model was a strange mistake. This convention was for the settlement of outstanding claims of American citizens on Great Britain, and of British subjects on the United States, which had arisen since the Treaty of Ghent in 1814. It concerned individuals only, and not the nation. It was not in any respect political; nor was it to remove any sense of national wrong. To take such a convention as the model for a treaty which was to determine a national grievance of transcendent importance in the relations of two countries marked on the threshold an insensibility to the true nature of the difference to be settled. At once it belittled the work to be done.

An inspection of the treaty shows how from beginning to end it is merely for the settlement of individual claims on both sides, putting the two batches on an equality, so that the sufferers by the misconduct of England may be counterbalanced by British blockade-runners. It opens with a preamble, which, instead of announcing the unprecedented question between the two countries, simply refers to individual claims that have arisen since 1853, — the last time of settlement, — some of which are still pending and remain unsettled. Who would believe that under these words of commonplace was concealed the unsettled difference which has already so deeply stirred the American people, and is destined, until finally adjusted, to occupy the attention of the

civilized world? Nothing here gives notice of the real question. I quote the preamble, as it is the key-note to the treaty: —

"Whereas claims have at various times since the exchange of the ratifications of the convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the Government of her Britannic Majesty on the part of citizens of the United States, and upon the Government of the United States on the part of subjects of her Britannic Majesty; and whereas *some of such claims are still pending and remain unsettled;* her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a convention."[1]

The provisions of the treaty are for the trial of these cases. A commission is constituted, which is empowered to choose an arbitrator; but, in the event of a failure to agree, the arbitrator shall be determined "by lot" from two persons, one named by each side. Even if this aleatory proceeding were a proper device in the umpirage of private claims, it is strangely inconsistent with the solemnity which belongs to the present question. The moral sense is disturbed by such a process at any stage of the trial; nor is it satisfied by the subsequent provision for the selection of a sovereign or head of a friendly state as arbitrator.

[1] For the full text of the Convention, see Parliamentary Papers, 1868-9, Vol. LXIII., — North America, No. 1, pp. 36-38; Executive Documents, 41st Cong. 1st Sess., Senate, No. 11, — Correspondence concerning Claims against Great Britain, Vol. III. pp. 752-5.

The treaty not merely makes no provision for the determination of the great question, but it seems to provide expressly that it shall never hereafter be presented. A petty provision for individual claims, subject to a set-off by the individual claims of England, so that in the end our country may possibly receive nothing, is the consideration for this strange surrender. I borrow a term from an English statesman on another occasion, if I call it a "capitulation."[1] For the settlement of a few individual claims, we condone the original far-reaching and destructive wrong. Here are the plain words by which this is done:—

"The high contracting parties engage to consider the result of the proceedings of this commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled and barred, and thenceforth inadmissible."

All this I quote directly from the treaty. It is Article V. The national cause is handled as nothing more than a bundle of individual claims, and the result of the proceedings under the proposed treaty is to be "a full and final settlement," so that hereafter all claims "shall be considered and treated as finally settled and barred, and thenceforth inadmissible." Here is no provision for the real question, which, though thrust out of sight, or

[1] A term applied in England to the Ashburton Treaty, — and Lord Palmerston thought "*most properly.*" — *Debate in the House of Commons*, February 2, 1843: Hansard, 3d Ser., Vol. LXVI. coll. 87, 121, 127.

declared to be "finally settled and barred," according to the terms of the treaty, must return to plague the two countries. Whatever the treaty may say in terms, there is no settlement in fact; and until this is made, there will be constant menace of discord. Nor can it be forgotten that there is no recognition of the rule of international duty applicable to such cases. This, too, is left unsettled.

While doing so little for us, the treaty makes ample provision for all known claims on the British side. As these are exclusively "individual," they are completely covered by the text, which has no limitations or exceptions. Already it is announced in England that even those of "Confederate bondholders" are included. I have before me an English journal which describes the latter claims as founded on "immense quantities of cotton, worth at the time of their seizure nearly two shillings a pound, which were then in the legal possession of those bondholders"; and the same authority adds, "These claims will be brought, indifferently with others, before the designed joint commission, whenever it shall sit." From another quarter I learn that these bondholders are "very sanguine of success *under the treaty as it is worded*, and certain it is that the loan went up from 0 to 10 as soon as it was ascertained that the treaty was signed." I doubt if the American people are ready just now to provide for any such claims. That they have risen in the market is an argument against the treaty.

THE CASE AGAINST ENGLAND.

PASSING from the treaty, I come now to consider briefly, but with proper precision, the true ground of

complaint; and here again we shall see the constant inadequacy of the remedy now applied. It is with reluctance that I enter upon this statement, and I do it only in the discharge of a duty which cannot be postponed.

Close upon the outbreak of our troubles, little more than one month after the bombardment of Fort Sumter, when the Rebellion was still undeveloped, when the National Government was beginning those gigantic efforts which ended so triumphantly, the country was startled by the news that the British Government had intervened by a Proclamation which accorded belligerent rights to the Rebels. At the early date when this was done, the Rebels were, as they remained to the close, without ships on the ocean, without prize courts or other tribunal for the administration of justice on the ocean, *without any of those conditions which are the essential prerequisites to such a concession;* and yet the concession was general, being applicable to the ocean and the land, so that by British fiat they became ocean belligerents as well as land belligerents. In the swiftness of this bestowal there was very little consideration for a friendly power; nor does it appear that there was any inquiry into those *conditions-precedent* on which it must depend. Ocean belligerency, being a "fact," and not a "principle," can be recognized only on evidence showing its *actual existence*, according to the rule first stated by Mr. Canning and afterward recognized by Lord John Russell.[1] But no such evidence was adduced; for it did not exist, and never has existed.

[1] Stapleton's Political Life of Canning, (London, 1831,) Vol. II. p. 408. Speech of Lord John Russell in the House of Commons, May 6, 1861: Hansard's Parliamentary Debates, 3d Ser., Vol. CLXII. col. 1566.

Too much stress cannot be laid upon the rule, that belligerency is a "fact," and not a "principle." It is perhaps the most important contribution to this discussion; and its original statement, on the occasion of the Greek Revolution, does honor to its author, unquestionably the brightest genius ever directed to this subject. According to this rule, belligerency must be proved to exist; it must be shown. It cannot be imagined, or divined, or invented; it must exist as a "fact" within the knowledge of the world, or at least as a "fact" susceptible of proof. Nor can it be inferred on the ocean merely from its existence on the land. From the beginning, when "God called the dry land Earth, and the gathering together of the waters called He Seas," the two have been separate, and power over one has not necessarily implied power over the other. There is a dominion of the land, and a dominion of the ocean. But, whatever power the Rebels possessed on the land, they were always without power on the ocean. Admitting that they were belligerents on the land, they were never belligerents on the ocean.

> "The oak leviathans, whose huge ribs make
> Their clay creator the vain title take
> Of lord of thee, *and arbiter of war*," —

these they never possessed. Such was the "fact" that must govern the present question. The rule, so simple, plain, and intelligible, as stated by Mr. Canning, is a decisive touchstone of the British concession, which, when brought to it, is found to be without support.

Unfriendly in the precipitancy with which it was launched, this concession was more unfriendly in substance. It was the first stage in the depredations on our commerce. Had it not been made, no Rebel ship could

have been built in England: every step in her building would have been piracy. Nor could any munitions of war have been furnished: not a blockade-runner, laden with supplies, could have left the English shores, except under a kindred penalty. The direct consequence of this concession was to place the Rebels on an equality with ourselves in all British markets, whether of ships or munitions of war. As these were open to the National Government, so they were open to the Rebels. The asserted neutrality between the two began by this tremendous concession, when the Rebels, at one stroke, were transformed not only into belligerents, but into customers.

In attributing to that bad Proclamation this peculiar influence I follow the authority of the Law Lords of England, who, according to authentic report, announced that without it the fitting out of a ship in England to cruise against the United States would have been an act of piracy. This conclusion was clearly stated by Lord Chelmsford, ex-Chancellor, speaking for himself and others, when he said: "If the Southern Confederacy had not been recognized by us as *a belligerent power*, he agreed with his noble and learned friend [Lord Brougham], that any Englishman aiding them by fitting out a privateer against the Federal Government *would be guilty of piracy.*"[1] This conclusion is only according to analogies of law. It is criminal for British subjects to forge bombs or hand-grenades to be employed in the assassination of a foreign sovereign at peace with England, as when Bernard supplied from England the missiles used by Orsini against the life of the French

[1] Speech in the House of Lords, May 16, 1861: Hansard's Parliamentary Debates, 3d Ser., Vol. CLXII. col. 2084.

Emperor, — all of which is illustrated by Lord Chief-Justice Campbell, in his charge to the jury on the trial of Bernard, and also by contemporaneous opinions of Lord Lyndhurst, Lord Brougham, Lord Truro, and at an earlier day by Lord Ellenborough in a case of libel on the First Consul. That excellent authority, Sir George Cornewall Lewis, gives a summary drawn from all these opinions, when he says: "The obligation incumbent upon a state of preventing her soil from being used *as an arsenal*, in which the means of attack against a foreign government may be collected and prepared for use, is wholly independent of the form and character of that government."[1] As every government is constrained by this rule, so every government is entitled to its safeguards. There can be no reason why the life of our Republic should be less sacred than the life of an Emperor, or should enjoy less protection from British law. That England became an "arsenal" for the Rebels we know; but this could not have been, unless the Proclamation had prepared the way.

The only justification that I have heard for this extraordinary concession, which unleashed upon our country the Furies of War to commingle with the Furies of Rebellion at home, is, that President Lincoln undertook to proclaim a *blockade* of the Rebel ports. By the use of this word "blockade" the concession is vindicated. Had President Lincoln proclaimed a *closing* of the Rebel ports, there could have been no such concession. This is a mere technicality; lawyers might call it an *apex juris;* and yet on this sharp point England hangs her defence. It is sufficient that in a great case like the

[1] On Foreign Jurisdiction and the Extradition of Criminals, (London, 1859,) p. 75. See also pp. 59, 65–67.

present, where the correlative duties of a friendly power are in question, an act fraught with such portentous evil cannot be vindicated on a technicality. In this debate there is no room for technicality on either side. We must look at the substance, and find a reason in nothing short of overruling necessity. War cannot be justified merely on a technicality; nor can the concession of ocean belligerency to rebels without a port or prize court. Such a concession, like war itself, must be at the peril of the nation making it.

The British assumption, besides being offensive from mere technicality, is inconsistent with the Proclamation of the President, taken as a whole, which, while appointing a blockade, is careful to reserve the rights of sovereignty, thus putting foreign powers on their guard against any premature concession. After declaring an existing insurrection in certain States, and the obstruction of the laws for the collection of the revenue, as the motive for action, the President invokes not only the Law of Nations, but "the laws of the United States," and, in further assertion of the national sovereignty, declares Rebel cruisers to be pirates.[1] Clearly the Proclamation must be taken as a whole, and its different provisions so interpreted as to harmonize with each other. If they cannot stand together, then it is the "blockade" which must be modified by the national sovereignty, and not the national sovereignty by the blockade. Such should have been the interpretation of a friendly power, especially when it is considered that there are numerous precedents of what the great German authority, Heffter, calls "Pacific Blockade," or blockade without concession

[1] Correspondence concerning Claims against Great Britain, Vol. I. pp. 21-22: Executive Documents, 41st Cong. 1st Sess., Senate, No. 11.

of ocean belligerency, — as in the case of France, England, and Russia against Turkey, 1827; France against Mexico, 1837 – 39; France and Great Britain against the Argentine Republic, 1838 – 48; Russia against the Circassians, 1831 – 36, illustrated by the seizure of the Vixen, so famous in diplomatic history.[1] Cases like these led Heffter to lay down the rule, that "*blockade*" does not necessarily constitute *a state of regular war*,[2] as was assumed by the British Proclamation, even in the face of positive words by President Lincoln asserting the national sovereignty and appealing to "the laws of the United States." The existence of such cases was like a notice to the British Government against the concession so rashly made. It was an all-sufficient warning, which this power disregarded.

So far as is now known, the whole case for England is made to stand on the use of the word "Blockade" by President Lincoln. Had he used any other word, the concession of belligerency would have been without justification, even such as is now imagined. It was this word which, with magical might, opened the gates to all those bountiful supplies by which hostile expeditions were equipped against the United States: it opened the gates of war. Most appalling is it to think that one little word, unconsciously used by a trusting President, could be caught up by a friendly power and made to play such a part.

I may add that there is one other word often invoked for apology. It is "Neutrality," which, it is said, was

[1] Hautefeuille, Des Droits et des Devoirs des Nations Neutres, (2ème Édit., Paris, 1858,) Tit. IX. chap. 7. Parliamentary Papers, 1837, Vol. LIV.; 1837 – 8, Vol. LII.

[2] Le Droit International Public de l'Europe, (Berlin et Paris, 1857,) §§ 112, 121.

proclaimed between two belligerents. Nothing could be fairer, always provided that the "neutrality" proclaimed did not begin with a concession to one party without which this party would be powerless. Between two established Nations, both independent, as between Russia and France, there may be neutrality; for the two are already equal in rights, and the proclamation would be precisely equal in its operation. But where one party is an established Nation, and the other is nothing but an odious combination of Rebels, the proclamation is most unequal in operation; for it begins by a solemn investiture of Rebels with all the rights of war, saying to them, as was once said to the youthful knight, "Rise; here is a sword; use it." To call such an investiture a proclamation of neutrality is a misnomer. It was a proclamation of equality between the National Government on the one side and Rebels on the other, and no plausible word can obscure this distinctive character.

Then came the building of the pirate ships, one after another. While the Alabama was still in the ship-yard, it became apparent that she was intended for the Rebels. Our Minister at London and our Consul at Liverpool exerted themselves for her arrest and detention. They were put off from day to day. On the 24th July, 1862, Mr. Adams "completed his evidence," accompanied by an opinion from the eminent barrister, Mr. Collier, afterward Solicitor-General, declaring the plain duty of the British Government to stop her.[1] Instead of acting promptly by the telegraph, five days were allowed to run out, when at last, too tardily, the necessary order was dispatched. Meanwhile the pirate ship escaped

[1] Mr. Adams to Earl Russell, July 24, 1862: Correspondence concerning Claims against Great Britain, Vol. III. pp. 26, 29.

from the port of Liverpool by a stratagem, and her voyage began with music and frolic. Here, beyond all question, was negligence, or, according to the language of Lord Brougham on another occasion, "crass negligence," making England justly responsible for all that ensued.

The pirate ship found refuge in an obscure harbor of Wales, known as Moelfra Bay, where she lay in British waters *from half-past seven o'clock, P. M., July 29th, to about three o'clock, A. M., July 31st,* being upward of thirty-one hours, and during this time she was supplied with men from the British steam-tug Hercules, which followed her from Liverpool. These thirty-one hours were allowed to elapse without any attempt to stop her. Here was another stage of "crass negligence."

Thus was there negligence in allowing the building to proceed, negligence in allowing the escape from Liverpool, and negligence in allowing the final escape from the British coast.

Lord Russell, while trying to vindicate his Government, and repelling the complaints of the United States, more than once admitted that the escape of the Alabama was "a scandal and a reproach,"[1] which to my mind is very like a confession. Language could not be stronger. Surely such an act cannot be blameless. If damages are ever awarded to a friendly power for injuries received, it is difficult to see where they could be more strenuously claimed than in a case which the First Minister of the offending power did not hesitate to characterize so strongly.

[1] Earl Russell to Lord Lyons, March 27, 1863: Parliamentary Papers, 1864, Vol. LXII., — North America, No. I. pp. 2, 3. Speech in the House of Lords, February 16, 1864: Hansard's Parliamentary Debates, 3d Ser., Vol. CLXXIII. coll. 632, 633.

The enlistment of the crew was not less obnoxious to censure than the building of the ship and her escape. It was a part of the transaction. The evidence is explicit. Not to occupy too much time, I refer only to the deposition of William Passmore, who swears that he was engaged with the express understanding that "the vessel was going out to the Government of the Confederate States of America," "to fight for the Southern Government"; that he joined her at Laird's yard at Birkenhead, near Liverpool, remaining there several weeks; that there were about thirty men on board, most of them old man-of-war's men, among whom it was "well known that the vessel was going out as a privateer for the Confederate Government, to act against the United States, under a commission from Mr. Jefferson Davis."[1] In a list of the crew, now before me, there is a large number said to be from the "Royal Naval Reserve."[2] I might add to this testimony. The more the case is examined, the more clearly do we discern the character of the transaction.

The dedication of the ship to the Rebel service, from the very laying of the keel and the organization of her voyage, with England as her *naval base*, from which she drew munitions of war and men, made her departure as much *a hostile expedition* as if she had sailed forth from her Majesty's dock-yard. At a moment of profound peace between the United States and England there was a hostile expedition against the United States. It was in no just sense a commercial transaction, but an act of war.

[1] Deposition of William Passmore, July 21, 1862, — in Note of Mr. Adams to Earl Russell, July 22, 1862: Correspondence concerning Claims against Great Britain, Vol. III. pp. 25–26.

[2] Schedule annexed to Deposition of John Latham, in Note of Mr. Adams to Earl Russell, January 13, 1864: Ibid., Vol. III. pp. 213–16.

The case is not yet complete. The Alabama, whose building was in defiance of law, international and municipal, whose escape was "a scandal and a reproach," and whose enlistment of her crew was a fit sequel to the rest, after being supplied with an armament and with a Rebel commander, entered upon her career of piracy. Mark now a new stage of complicity. Constantly the pirate ship was within reach of British cruisers, and from time to time within the shelter of British ports. For five days, unmolested, she enjoyed the pleasant hospitality of Kingston, in Jamaica, obtaining freely the coal and other supplies so necessary to her vocation. But no British cruiser, no British magistrate ever arrested the offending ship, whose voyage was a continuing "scandal and reproach" to the British Government.

The excuse for this strange license is a curious technicality, — as if a technicality could avail in this case at any stage. Borrowing a phrase from that master of admiralty jurisprudence, Sir William Scott, it is said that the ship "deposited" her original sin at the conclusion of her voyage, so that afterward she was blameless. But the Alabama never concluded her voyage until she sank under the guns of the Kearsarge, because she never had a port of her own. She was no better than the Flying Dutchman, and so long as she sailed was liable for that original sin, which had impregnated every plank with an indelible dye. No British cruiser could allow her to proceed, no British port could give her shelter, without renewing the complicity of England.

The Alabama case begins with a fatal concession, by which the Rebels were enabled to build ships in England, and then to sail them, without being liable as pirates; it next shows itself in the building of the ship,

in the armament, and in the escape, with so much of negligence on the part of the British Government as to constitute sufferance, if not connivance; and then, again, the case reappears in the welcome and hospitality accorded by British cruisers and by the magistrates of British ports to the pirate ship, when her evasion from British jurisdiction was well known. Thus at three different stages the British Government is compromised: first, in the concession of ocean belligerency, on which all depended; secondly, in the negligence which allowed the evasion of the ship, in order to enter upon the hostile expedition for which she was built, manned, armed, and equipped; and, thirdly, in the open complicity which, after this evasion, gave her welcome, hospitality, and supplies in British ports. Thus her depredations and burnings, making the ocean blaze, all proceeded from England, which by three different acts lighted the torch. To England must be traced, also, all the widespread consequences which ensued.

I take the case of the Alabama because it is the best known, and because the building, equipment, and escape of this ship were under circumstances most obnoxious to judgment; but it will not be forgotten that there were consort ships, built under the shelter of that fatal Proclamation, issued in such an eclipse of just principles, and, like the ships it unloosed, "rigged with curses dark." One after another, ships were built; one after another, they escaped on their errand; and, one after another, they enjoyed the immunities of British ports. Audacity reached its height when iron-clad rams were built, and the perversity of the British Government became still more conspicuous by its long refusal to arrest these destructive engines of war, destined to be employed

against the United States. This protracted hesitation, where the consequences were so menacing, is a part of the case.

It is plain that the ships which were built under the safeguard of this ill-omened Proclamation, which stole forth from the British shores and afterward enjoyed the immunities of British ports, were not only British in origin, but British in equipment, British in armament, and British in crews. They were British in every respect, except in their commanders, who were Rebel; and one of these, as his ship was sinking, owed his safety to a British yacht, symbolizing the omnipresent support of England. British sympathies were active in their behalf. The cheers of a British passenger-ship crossing the path of the Alabama encouraged the work of piracy; and the cheers of the House of Commons encouraged the builder of the Alabama, while he defended what he had done, and exclaimed, in taunt to him who is now an illustrious member of the British Cabinet, John Bright, that he "would rather be handed down to posterity as the builder of a dozen Alabamas" than be the author of the speeches of that gentleman "crying up" the institutions of the United States, which the builder of the Alabama, rising with his theme, denounced as "of no value whatever," and as "reducing the very name of Liberty to an utter absurdity,"[1] while the cheers of the House of Commons echoed back his words. Thus from beginning to end, from the fatal Proclamation to the rejoicing of the accidental ship and the rejoicing of the House of Commons, was this hostile expedition protected

[1] Speech in the House of Commons, March 27, 1863: Hansard's Parliamentary Debates, 3d Ser., Vol. CLXX. coll. 71-72; The Times (London), March 28, 1863.

and encouraged by England. The same spirit which dictated the swift concession of belligerency, with all its deadly incidents, ruled the hour, entering into and possessing every pirate ship.

There are two circumstances by which the whole case is aggravated. One is found in the date of the Proclamation which lifted the Rebels to an equality with the National Government, opening to them everything that was open to us, whether ship-yards, foundries, or manufactories, and giving to them a flag on the ocean coëqual with the flag of the Union. This extraordinary manifesto was signed on the very day of the arrival of our Minister in England, — so that, when, after an ocean voyage, he reached the British Government, to which he was accredited, he found this great and terrible indignity to his country already perpetrated, and the floodgates opened to infinite woes. The Minister had been announced; he was daily expected; the British Government knew of his coming; — but in hottest haste they did this thing.

The other aggravation is found in its flagrant, unnatural departure from that Antislavery rule which, by manifold declarations, legislative, political, and diplomatic, was the avowed creed of England. Often was this rule proclaimed, but, if we except the great Act of Emancipation, never more pointedly than in the famous circular of Lord Palmerston, while Minister of Foreign Affairs, announcing to all nations that England was pledged to the Universal Abolition of Slavery.[1] And

[1] Circular of May 11, 1841, — inclosing Circular to British functionaries abroad, dated May 8, 1841, together with a Memorial of the General Antislavery Convention held at London, June 20, 1840: Parliamentary Papers, 1842, Vols. XLIII., XLIV.

now, when Slaveholders, in the very madness of barbarism, broke away from the National Government and attempted to found a new empire with Slavery as its declared corner-stone, Antislavery England, without a day's delay, without even waiting the arrival of our Minister at the seat of Government, although known to be on his way, made haste to decree that this shameful and impossible pretension should enjoy equal rights with the National Government in her ship-yards, foundries, and manufactories, and equal rights on the ocean. Such was the decree. Rebel Slaveholders, occupied in a hideous attempt, were taken by the hand, and thus, with the official protection and the God-speed of Antislavery England, commenced their accursed work.

I close this part of the argument with the testimony of Mr Bright, who, in a speech at Rochdale, among his neighbors, February 3, 1863, thus exhibits the criminal complicity of England: —

"I regret, more than I have words to express, this painful fact, that, of all the countries in Europe, this country is the only one which has men in it who are willing to take active steps in favor of this intended Slave Government. We supply the ships; we supply the arms, the munitions of war; *we give aid and comfort to this foulest of all crimes. Englishmen only do it.*"[1]

In further illustration, and in support of Mr. Bright's allegation, I refer again to the multitudinous blockade-runners from England. Without the manifesto of belligerency they could not have sailed. All this stealthy fleet, charged with hostility to the United States, was a part of the great offence. The blockade-runners were

[1] Speeches on Questions of Public Policy, (London, 1868,) Vol. I. p. 239.

kindred to the pirate ships. They were of the same bad family, having their origin and home in England. From the beginning they went forth with their cargoes of death; — for the supplies which they furnished contributed to the work of death. When, after a long and painful siege, our conquering troops entered Vicksburg, they found Armstrong guns from England in position;[1] and so on every field where our patriot fellow-citizens breathed a last breath were English arms and munitions of war, all testifying against England. The dead spoke, also, — and the wounded still speak.

REPARATION FROM ENGLAND.

At last the Rebellion succumbed. British ships and British supplies had done their work, but they failed. And now the day of reckoning has come, — but with little apparent sense of what is due on the part of England. Without one soothing word for a friendly power deeply aggrieved, without a single regret for what Mr. Cobden, in the House of Commons, called "the cruel losses"[2] inflicted upon us, or for what Mr. Bright called "aid and comfort to the foulest of all crimes,"[3] or for what a generous voice from Oxford University denounced as a "flagrant and maddening wrong,"[4] England simply proposes to submit the question of liability for individual losses to an anomalous tribunal where chance plays

[1] Rebellion Record, Vol. VII., Part 3, p. 52.

[2] Speech, May 13, 1864: Hansard's Parliamentary Debates, 3d Ser., Vol. CLXXV. col. 505.

[3] Speech at Rochdale, February 3, 1863: See preceding page.

[4] Speech of Prof. Goldwin Smith, at a Meeting of the Union and Emancipation Society, Manchester, England, April 6, 1863, on the Subject of War Ships for the Southern Confederacy: Report, p. 25.

its part. This is all. Nothing is admitted, even on this question; no rule for the future is established; while nothing is said of the indignity to the nation, nor of the damages to the nation. On an earlier occasion it was otherwise.

There is an unhappy incident in our relations with Great Britain, which attests how in other days individual losses were only a minor element in reparation for a wrong received by the nation. You all know from history how in time of profound peace, and only a few miles outside the Virginia Capes, the British frigate Leopard fired into the national frigate Chesapeake, pouring broadside upon broadside, killing three persons and wounding eighteen, some severely, and then, boarding her, carried off four others as British subjects. This was in the summer of 1807. The brilliant Mr. Canning, British Minister of Foreign Affairs, promptly volunteered overtures for an accommodation, by declaring his Majesty's readiness to take the whole of the circumstances of the case into consideration, and "to make reparation for *any alleged injury to the sovereignty of the United States*, whenever it should be clearly shown that such injury has been actually sustained and that such reparation is really due."[1] Here was a good beginning. There was to be reparation for an injury to the national sovereignty. After years of painful negotiation, the British Minister at Washington, under date of November 1, 1811, offered to the United States three propositions: first, the disavowal of the unauthorized act; secondly, the immediate restoration, so far as circumstances would permit, of the men forcibly taken from the Chesapeake;

[1] Mr. Canning to Mr. Monroe, August 3, 1807: American State Papers, Foreign Relations, Vol. III. p. 188.

and, thirdly, a suitable pecuniary provision for the sufferers in consequence of the attack on the Chesapeake; concluding with these words: —

"These honorable propositions are made with the sincere desire that they may prove satisfactory to the Government of the United States, and I trust they will meet with that amicable reception which their conciliatory nature entitles them to. I need scarcely add how cordially I join with you in the wish that they might prove introductory to a removal of all the differences depending between our two countries." [1]

I adduce this historic instance to illustrate partly the different forms of reparation. Here, of course, was reparation to individuals; but there was also reparation to the nation, whose sovereignty had been outraged.

There is another instance, which is not without authority. In 1837 an armed force from Upper Canada crossed the river just above the Falls of Niagara, and burned an American vessel, the Caroline, while moored to the shores of the United States. Mr. Webster, in his negotiation with Lord Ashburton, characterized this act as "of itself a wrong, and an offence to the sovereignty and the dignity of the United States, ... for which, to this day, no atonement, or even apology, has been made by her Majesty's Government," [2] — all these words being strictly applicable to the present case. Lord Ashburton, in reply, after recapitulating some mitigating circumstances, and expressing a regret "that some explanation and apology for this occurrence was not immediately made," proceeds to say: —

[1] Mr. Foster to Mr. Monroe, November 1, 1811: American State Papers, Foreign Relations, Vol. III. pp. 499-500.

[2] Mr. Webster to Lord Ashburton, July 27, 1842: Executive Documents, 27th Cong. 3d Sess., H. of R., No. 2, p. 124.

"Her Majesty's Government earnestly desire that a reciprocal respect for the independent jurisdiction and authority of neighboring states may be considered among the first duties of all Governments; and I have to repeat the assurance of regret they feel that the event of which I am treating should have disturbed the harmony they so anxiously wish to maintain with the American people and Government." [1]

Here again was reparation for a wrong done to the nation.

Looking at what is due to us on the present occasion, we are brought again to the conclusion that the satisfaction of individuals whose ships have been burnt or sunk is only a small part of what we may justly expect. As in the earlier cases where the national sovereignty was insulted, there should be an acknowledgment of wrong, or at least of liability, leaving to the commissioners the assessment of damages only. The blow inflicted by that fatal Proclamation which insulted our national sovereignty and struck at our unity as a nation, followed by broadside upon broadside, driving our commerce from the ocean, was kindred in character to those earlier blows; and when we consider that it was in aid of Slavery, it was a blow at Civilization itself. Besides degrading us and ruining our commerce, its direct and constant influence was to encourage the Rebellion, and to prolong the war waged by Slaveholders at such cost of treasure and blood. It was a terrible mistake, which I cannot doubt that good Englishmen must regret. And now, in the interest of peace, it is the duty of both sides to find a remedy, complete, just, and conciliatory, so that the deep sense of wrong and the detriment to

[1] Lord Ashburton to Mr. Webster, July 28, 1842: Executive Documents, 27th Cong. 3d Sess., H. of R., No. 2, p. 134.

the Republic may be forgotten in that proper satisfaction which a nation loving justice cannot hesitate to offer.

THE EXTENT OF OUR LOSSES.

Individual losses may be estimated with reasonable accuracy. Ships burnt or sunk with their cargoes may be counted, and their value determined; but this leaves without recognition the vaster damage to commerce driven from the ocean, and that other damage, immense and infinite, caused by the prolongation of the war, all of which may be called *national* in contradistinction to *individual*.

Our *national losses* have been frankly conceded by eminent Englishmen. I have already quoted Mr. Cobden, who did not hesitate to call them "cruel losses." During the same debate in which he let drop this testimony, he used other words, which show how justly he comprehended the case. "*You have been*," said he, "*carrying on hostilities from these shores against the people of the United States*, and have been inflicting an amount of damage on that country greater than would be produced by many ordinary wars. It is estimated that the loss sustained by the capture and burning of American vessels has been about $15,000,000, or nearly £3,000,000 sterling. *But that is a small part of the injury which has been inflicted on the American marine.* We have rendered the rest of her vast mercantile property for the present valueless."[1] Thus, by the testimony of Mr. Cobden, were those individual losses which are alone recognized by the pending treaty only "a small

[1] Speech in the House of Commons, May 13, 1864: Hansard's Parliamentary Debates, 3d Ser., Vol. CLXXV. coll. 496-7.

part of the injury inflicted." After confessing his fears with regard to "the heaping up of a *gigantic material grievance*" such as was then accumulating, he adds, in memorable words: —

"You have already done your worst towards the American mercantile marine. What with the high rate of insurance, what with these captures, and what with the rapid transfer of tonnage to British capitalists, you have virtually made valueless that vast property. Why, if you had gone and helped the Confederates by bombarding all the accessible seaport towns of America, a few lives might have been lost, which, as it is, have not been sacrificed; but you could hardly have done more injury in the way of destroying property than you have done by these few cruisers."[1]

With that clearness of vision which he possessed in such rare degree, this statesman saw that England had "virtually made valueless a vast property," as much as if this power had "bombarded all the accessible seaport towns of America."

So strong and complete is this statement, that any further citation seems superfluous; but I cannot forbear adducing a pointed remark in the same debate, by that able gentleman, Mr. William E. Forster: —

"There could not," said he, "be a stronger illustration of the damage which had been done to the American trade by these cruisers than the fact, that, so completely was the American flag driven from the ocean, the Georgia, on her second cruise, did not meet a single American vessel in six weeks, though she saw no less than seventy vessels in a very few days."[2]

[1] Speech in the House of Commons, May 13, 1864: Hansard's Parliamentary Debates, 3d Ser., Vol. CLXXV. col. 498.

[2] Ibid., col. 493.

This is most suggestive. So entirely was our commerce driven from the ocean, that for six weeks not an American vessel was seen!

Another Englishman, in an elaborate pamphlet, bears similar testimony. I refer to the pamphlet of Mr. Edge, published in London by Ridgway in 1863, and entitled "The Destruction of the American Carrying-Trade." After setting forth at length the destruction of our commerce by British pirates, this writer thus foreshadows the damages: —

"Were we," says he, "the sufferers, we should certainly demand compensation for the loss of the property captured or destroyed, for the interest of the capital invested in the vessels and their cargoes, and, maybe, a fair compensation in addition for all and any injury accruing to our business interests from the depredations upon our shipping. *The remuneration may reach a high figure in the present case; but it would be a simple act of justice*, and might prevent an incomparably greater loss in the future." [1]

Here we have the damages assessed by an Englishman, who, while contemplating remuneration at a high figure, recognizes it as "a simple act of justice."

Such is the candid and explicit testimony of Englishmen, pointing the way to the proper rule of damages. How to authenticate the extent of national loss with reasonable certainty is not without difficulty; but it cannot be doubted that such a loss occurred. It is folly to question it. The loss may be seen in various circumstances: as, in the rise of insurance on all American vessels; the fate of the carrying-trade, which was one of the great resources of our country; the diminution of

[1] Page 27.

our tonnage, with the corresponding increase of British tonnage; the falling off in our exports and imports, with due allowance for our abnormal currency and the diversion of war. These are some of the elements; and here again we have British testimony. Mr. W. E. Forster, in the speech already quoted, announces that "the carrying-trade of the United States was transferred to British merchants";[1] and Mr. Cobden, with his characteristic mastery of details, shows, that, according to an official document laid on the table of Parliament, American shipping had been transferred to English capitalists as follows: in 1858, 33 vessels, 12,684 tons; 1859, 49 vessels, 21,308 tons; 1860, 41 vessels, 13,638 tons; 1861, 126 vessels, 71,673 tons; 1862, 135 vessels, 64,578 tons; and 1863, 348 vessels, 252,579 tons; and he adds, "I am told that this operation is now going on as fast as ever"; and this circumstance he declares to be "the *most serious aspect* of the question of our relations with America."[2] But this "most serious aspect" is left untouched by the pending treaty.

Our own official documents are in harmony with these English authorities. For instance, I have before me now the Report of the Secretary of the Treasury for 1868, with an appendix by Mr. Nimmo, on shipbuilding in our country. From this Report it appears that in the New England States, during the year 1855, the most prosperous year of American shipbuilding, 305 ships and barks and 173 schooners were built, with an aggregate tonnage of 326,429 tons, while during the last year only 58 ships and barks and 213 schooners were built,

[1] Hansard's Parliamentary Debates, 3d Ser., Vol. CLXXV. col. 493.

[2] Ibid., col. 498. For official returns cited in the text, see Parliamentary Papers for 1864, Vol. LX. No. 137.

with an aggregate tonnage of 98,697 tons.[1] I add a further statement from the same Report: —

"During the ten years from 1852 to 1862 the aggregate tonnage of American vessels entered at seaports of the United States from foreign countries was 30,225,475 tons, and the aggregate tonnage of foreign vessels entered was 14,699,192 tons, while during the five years from 1863 to 1868 the aggregate tonnage of American vessels entered was 9,299,877 tons, and the aggregate tonnage of foreign vessels entered was 14,116,427 tons, — showing that American tonnage in our foreign trade had fallen from two hundred and five to sixty-six per cent. of foreign tonnage in the same trade. Stated in other terms, during the decade from 1852 to 1862 sixty-seven per cent. of the total tonnage entered from foreign countries was in American vessels, and during the five years from 1863 to 1868 only thirty-nine per cent. of the aggregate tonnage entered from foreign countries was in American vessels, — a relative falling off of nearly one half." [2]

It is not easy to say how much of this change, which has become chronic, may be referred to British pirates; but it cannot be doubted that they contributed largely to produce it. They began the influences under which this change has continued.

There is another document which bears directly upon the present question. I refer to the interesting Report of Mr. Morse, our consul at London, made during the last year, and published by the Secretary of State. After a minute inquiry, the Report shows that on the breaking out of the Rebellion in 1861 the entire tonnage of the United States, coasting and registered, was

[1] Report of the Secretary of the Treasury, December 1, 1868, Appendix B: Executive Documents, 40th Cong. 3d Sess., H. of R., No. 2, p. 496.
[2] Ibid.

5,539,813 tons, of which 2,642,628 tons were registered and employed in foreign trade, and that at the close of the Rebellion in 1865, notwithstanding an increase in coasting tonnage, our registered tonnage had fallen to 1,602,528 tons, being a loss during the four years of more than a million tons, amounting to about forty per cent. of our foreign commerce. During the same four years the total tonnage of the British empire rose from 5,895,369 tons to 7,322,604 tons, the increase being especially in the foreign trade. The Report proceeds to say that as to the cause of the decrease in America and the corresponding increase in the British empire "there can be no room for question or doubt." Here is the precise testimony from one who at his official post in London watched this unprecedented drama, with the outstretched ocean as a theatre, and British pirates as the performers: —

"Conceding to the Rebels the belligerent rights of the sea, when they had not a solitary war-ship afloat, in dock, or in the process of construction, and when they had no power to protect or dispose of prizes, made their sea-rovers, when they appeared, the instruments of terror and destruction to our commerce. From the appearance of the first corsair in pursuit of their ships, American merchants had to pay not only the marine, but the war risk also, on their ships. After the burning of one or two ships with their neutral cargoes, the ship-owner had to pay the war risk on the cargo his ship had on freight, as well as on the ship. Even then, for safety, the preference was, as a matter of course, always given to neutral vessels, and American ships could rarely find employment on these hard terms as long as there were good neutral ships in the freight markets. Under such circumstances there was no course left for our merchant ship-owners but to take such profitless business as was occasionally offered them, let their

ships lie idle at their moorings or in dock with large expense and deterioration constantly going on, to sell them outright when they could do so without ruinous sacrifice, or put them under foreign flags for protection."[1]

Beyond the actual loss in the national tonnage, there was a further loss in the arrest of our natural increase in this branch of industry, which an intelligent statistician puts at five per cent. annually, making in 1866 a total loss on this account of 1,384,953 tons, which must be added to 1,229,035 tons actually lost.[2] The same statistician, after estimating the value of a ton at forty dollars gold, and making allowance for old and new ships, puts the sum-total of national loss on this account at $110,000,000. Of course this is only an item in our bill.

To these authorities I add that of the National Board of Trade, which, in a recent report on American Shipping, after setting forth the diminution of our sailing tonnage, says that it is nearly all to be traced to the war on the ocean; and the result is summed up in the words, that, "while the tonnage of the nation was rapidly disappearing *by the ravages of the Rebel cruisers* and by sales abroad, in addition to the usual loss by the perils of the sea, there was no construction of new vessels going forward to counteract the decline even in part."[3] Such is the various testimony, all tending to one conclusion.

[1] Report of F. H. Morse, U. S. Consul at London, dated January 1, 1868: Commercial Relations of the United States with Foreign Nations for the Year ending September 30, 1867: Executive Documents, 40th Cong. 2d Sess., H. of R., No. 160, p. 11.

[2] See Statement of Tonnage of United States from 1789 to 1866, in Report of Secretary of Treasury for 1866: Executive Documents, 39th Cong. 2d Sess., H. of R., No. 4, pp. 355-6.

[3] Proceedings of the First Annual Meeting of the National Board of Trade, December, 1868, p. 186.

This is what I have to say for the present on *national losses* through the destruction of commerce. These are large enough; but there is another chapter, where they are larger far: I refer, of course, to the national losses caused by the prolongation of the war, and traceable directly to England. Pardon me, if I confess the regret with which I touch this prodigious item; for I know well the depth of feeling which it is calculated to stir. But I cannot hesitate. It belongs to the case. No candid person, who studies this eventful period, can doubt that the Rebellion was originally encouraged by hope of support from England, — that it was strengthened at once by the concession of belligerent rights on the ocean, — that it was fed to the end by British supplies, — that it was encouraged by every well-stored British ship that was able to defy our blockade, — that it was quickened into frantic life with every report from the British pirates, flaming anew with every burning ship; nor can it be doubted that without British intervention the Rebellion would have soon succumbed under the well-directed efforts of the National Government. Not weeks or months, but years, were added in this way to our war, so full of costly sacrifice. The subsidies which in other times England contributed to Continental wars were less effective than the aid and comfort which she contributed to the Rebellion. It cannot be said too often that the *naval base* of the Rebellion was not in America, but in England. The blockade-runners and the pirate ships were all English. England was the fruitful parent, and these were the "hell-hounds," pictured by Milton in his description of Sin, which, "when they list, would creep into her womb and kennel there." Mr. Cobden boldly said in the House of Commons that England made war

from her shores on the United States, with "an amount of damage to that country greater than would be produced by many ordinary wars." [1] According to this testimony, the conduct of England was war; but it must not be forgotten that this war was carried on at our sole cost. The United States paid for a war waged by England upon the National Unity.

There was one form that this war assumed which was incessant, most vexatious, and costly, besides being in itself a positive alliance with the Rebellion. It was that of blockade-runners, openly equipped and supplied by England under the shelter of that baleful Proclamation. Constantly leaving English ports, they stole across the ocean, and then broke the blockade. These active agents of the Rebellion could be counteracted only by a network of vessels stretching along the coast, at great cost to the country. Here is another distinct item, the amount of which may be determined at the Navy Department.

The sacrifice of precious life is beyond human compensation; but there may be an approximate estimate of the national loss in treasure. Everybody can make the calculation. I content myself with calling attention to the elements which enter into it. Besides the blockade, there was the prolongation of the war. The Rebellion was suppressed at a cost of more than four thousand million dollars, a considerable portion of which has been already paid, leaving twenty-five hundred millions as a national debt to burden the people. If, through British intervention, the war was doubled in duration, or in any way extended, as cannot be doubted, then is England

[1] Speech, May 13, 1864: Hansard's Parliamentary Debates, 3d Ser., Vol. CLXXV. col. 496.

justly responsible for the additional expenditure to which our country was doomed; and whatever may be the final settlement of these great accounts, such must be the judgment in any chancery which consults the simple equity of the case.

This plain statement, without one word of exaggeration or aggravation, is enough to exhibit the magnitude of the national losses, whether from the destruction of our commerce, the prolongation of the war, or the expense of the blockade. They stand before us mountain-high, with a base broad as the Nation, and a mass stupendous as the Rebellion itself. It will be for a wise statesmanship to determine how this fearful accumulation, like Ossa upon Pelion, shall be removed out of sight, so that it shall no longer overshadow the two countries.

THE RULE OF DAMAGES.

PERHAPS I ought to anticipate an objection from the other side, to the effect that these national losses, whether from the destruction of our commerce, the prolongation of the war, or the expense of the blockade, are indirect and remote, so as not to be a just ground of claim. This is expressed at the Common Law by the rule that "damages must be for the natural and proximate consequence of an act."[1] To this excuse the answer is explicit. The damages suffered by the United States are twofold, individual and national, being in each case direct and proximate, although in the one case individuals suffered, and in the other case the nation. It is easy to see that there may be occasions, where, overtopping all individual damages, are damages suffered by the nation, so that

[1] Greenleaf on the Law of Evidence, Part IV. § 256.

reparation to individuals would be insufficient. Nor can the claim of the nation be questioned simply because it is large, or because the evidence with regard to it is different from that in the case of an individual. In each case the damage must be proved by the best possible evidence, and this is all that law or reason can require. In the case of the nation the evidence is historic; and this is enough. Impartial history will record the national losses from British intervention, and it is only reasonable that the evidence of these losses should not be excluded from judgment. Because the case is without precedent, because no nation ever before received such injury from a friendly power, this can be no reason why the question should not be considered on the evidence.

Even the rule of the Common Law furnishes no impediment; for our damages are the natural consequence of what was done. But the rule of the Roman Law, which is the rule of International Law, is broader than that of the Common Law. The measure of damages, according to the Digest, is, "Whatever may have been lost or might have been gained," — *Quantum mihi abest, quantumque lucrari potui;*[1] and this same rule seems to prevail in the French Law, borrowed from the Roman Law.[2] This rule opens the door to ample reparation for all damages, whether individual or national.

There is another rule of the Common Law, in harmony with strict justice, which is applicable in the case. I find it in the law relating to *Nuisances*, which provides that there may be two distinct proceedings, — first, in behalf of individuals, and, secondly, in behalf

[1] Digest. Lib. XLVI. Tit. 8, cap. 13.

[2] Pothier on the Law of Obligations, tr. Evans, Part I. Ch. 2, Art. 3.

of the community. Obviously, reparation to individuals does not supersede reparation to the community. The proceeding in the one case is by action at law, and in the other by indictment. The reason assigned by Blackstone for the latter is, "Because, the damage being common to all the king's subjects, no one can assign his particular proportion of it."[1] But this is the very case with regard to damages sustained by the nation.

A familiar authority furnishes an additional illustration, which is precisely in point: —

"No person, natural or corporate, can have an action for a *public nuisance*, or punish it, — but only the king, in his public capacity of supreme governor and *paterfamilias* of the kingdom. Yet this rule admits of one exception: where a private person suffers some extraordinary damage beyond the rest of the king's subjects."[2]

Applying this rule to the present case, the way is clear. Every British pirate was *a public nuisance*, involving the British Government, which must respond in damages, not only to the individuals who have suffered, but also to the National Government, acting as *paterfamilias* for the common good of all the people.

Thus by an analogy of the Common Law in the case of a Public Nuisance, also by the strict rule of the Roman Law, which enters so largely into International Law, and even by the rule of the Common Law relating to Damages, all losses, whether individual or national, are the just subject of claim. It is not I who say this; it is the Law. The colossal sum-total may be seen not

[1] Commentaries, Vol. III. p. 219.
[2] Tomlins, Law Dictionary, art. NUISANCE, IV.

only in the losses of individuals, but in those national losses caused by the destruction of our commerce, the prolongation of the war, and the expense of the blockade, all of which may be charged directly to England: —

"illud ab uno
Corpore, et ex una pendebat origine bellum." [1]

Three times is this liability fixed: first, by the concession of ocean belligerency, opening to the Rebels shipyards, foundries, and manufactories, and giving to them a flag on the ocean; secondly, by the organization of hostile expeditions, which, by admissions in Parliament, were nothing less than piratical war on the United States with England as the naval base; and, thirdly, by welcome, hospitality, and supplies extended to these pirate ships in ports of the British empire. Show either of these, and the liability of England is complete; show the three, and this power is bound by a triple cord.

CONCLUSION.

MR. PRESIDENT, in concluding these remarks, I desire to say that I am no volunteer. For several years I have carefully avoided saying anything on this most irritating question, being anxious that negotiations should be left undisturbed to secure a settlement which could be accepted by a deeply injured nation. The submission of the pending treaty to the judgment of the Senate left me no alternative. It became my duty to consider it carefully in committee, and to review the whole subject. If I failed to find what we had a right to expect, and if the just claims of our country assumed unexpected pro-

[1] Ovid, Metamorph. Lib. I. 185-6.

portions, it was not because I would bear hard on England, but because I wish most sincerely to remove all possibility of strife between our two countries; and it is evident that this can be done only by first ascertaining the nature and extent of difference. In this spirit I have spoken to-day. If the case against England is strong, and if our claims are unprecedented in magnitude, it is only because the conduct of this power at a trying period was most unfriendly, and the injurious consequences of this conduct were on a scale corresponding to the theatre of action. Life and property were both swallowed up, leaving behind a deep-seated sense of enormous wrong, as yet unatoned and even unacknowledged, which is one of the chief factors in the problem now presented to the statesmen of both countries. The attempt to close this great international debate without a complete settlement is little short of puerile.

With the lapse of time and with minuter consideration the case against England becomes more grave, not only from the questions of international responsibility which it involves, but from better comprehension of the damages, which are seen now in their true proportions. During the war, and for some time thereafter, it was impossible to state them. The mass of a mountain cannot be measured at its base; the observer must occupy a certain distance; and this rule of perspective is justly applicable to damages which are vast beyond precedent.

A few dates will show the progress of the controversy, and how the case enlarged. Going as far back as 20th November, 1862, we find our Minister in London, Mr. Adams, calling for redress from the British Gov-

ernment on account of the Alabama.[1] This was the mild beginning. On the 23d October, 1863, in another communication, the same Minister suggested to the British Government any "fair and equitable form of conventional arbitrament or reference."[2] This proposition slumbered in the British Foreign Office for nearly two years, during which the Alabama was pursuing her piratical career, when, on the 30th August, 1865, it was awakened by Lord Russell only to be knocked down in these words:—

"In your letter of the 23d of October, 1863, you were pleased to say that the Government of the United States is ready to agree to any form of arbitration. . . . . Her Majesty's Government must, therefore, decline either to make reparation and compensation for the captures made by the Alabama, or to refer the question to any foreign state."[3]

Such was our repulse from England, having at least the merit of frankness, if nothing else. On the 17th October, 1865, our Minister informed Lord Russell that the United States had finally resolved to make no effort for arbitration.[4] Again the whole question slumbered until 27th August, 1866, when Mr. Seward presented a list of individual claims on account of the pirate Alabama and other Rebel cruisers.[5] From that time negotiation has continued, with ups and downs, until at last the pending treaty was signed. Had the early overtures of our Government been promptly accepted, or had there

[1] Mr. Adams to Earl Russell, Nov. 20, 1862: Correspondence concerning Claims against Great Britain, Vol. III. pp. 70-73.

[2] Same to same: Ibid., pp. 180-2.

[3] Ibid., p. 562.

[4] Ibid., pp. 581-2.

[5] Ibid., p. 632; and General Appendix, No. XV., Vol. IV. pp. 422, seqq.

been at any time a just recognition of the wrong done, I doubt not that this great question would have been settled; but the rejection of our very moderate propositions, and the protracted delay, which afforded an opportunity to review the case in its different bearings, have awakened the people to the magnitude of the interests involved. If our demands are larger now than at our first call, it is not the only time in history when such a rise has occurred. The story of the Sibyl is repeated, and England is the Roman king.

Shall these claims be liquidated and cancelled promptly, or allowed to slumber until called into activity by some future exigency? There are many among us, who, taking counsel of a sense of national wrong, would leave them to rest without settlement, so as to furnish a precedent for retaliation in kind, should England find herself at war. There are many in England, who, taking counsel of a perverse political bigotry, have spurned them absolutely; and there are others, who, invoking the point of honor, assert that England cannot entertain them without compromising her honor. Thus there is peril from both sides. It is not difficult to imagine one of our countrymen saying, with Shakespeare's Jew, "The villany you teach me I will execute, and it shall go hard but I will better the instruction"; nor is it difficult to imagine an Englishman firm in his conceit that no apology can be made and nothing paid. I cannot sympathize with either side. Be the claims more or less, they are honestly presented, with the conviction that they are just; and they should be considered candidly, so that they shall no longer lower, like a cloud ready to burst, upon two nations, which, according to their inclinations, can do each other such infinite injury

or such infinite good. I know it is sometimes said that war between us must come sooner or later. I do not believe it. But if it must come, let it be later, and then I am sure it will never come. Meanwhile good men must unite to make it impossible.

Again I say, this debate is not of my seeking. It is not tempting; for it compels criticism of a foreign power with which I would have more than peace, more even than concord. But it cannot be avoided. The truth must be told, — not in anger, but in sadness. England has done to the United States an injury most difficult to measure. Considering when it was done and in what complicity, it is truly unaccountable. At a great epoch of history, not less momentous than that of the French Revolution or that of the Reformation, when Civilization was fighting a last battle with Slavery, England gave her name, her influence, her material resources to the wicked cause, and flung a sword into the scale with Slavery. Here was a portentous mistake. Strange that the land of Wilberforce, after spending millions for Emancipation, after proclaiming everywhere the truths of Liberty, and ascending to glorious primacy in the sublime movement for the Universal Abolition of Slavery, could do this thing! Like every departure from the rule of justice and good neighborhood, her conduct was pernicious in proportion to the scale of operations, affecting individuals, corporations, communities, and the nation itself. And yet down to this day there is no acknowledgment of this wrong, — not a single word. Such a generous expression would be the beginning of a just settlement, and the best assurance of that harmony between two great and kindred nations which all must desire.

LOCALITY IN APPOINTMENT TO OFFICE.

REMARKS IN THE SENATE, APRIL 21, 1869.

THE Senate having under consideration a resolution requesting from the heads of Departments "information of the names, age, and compensation of all inferior officers, clerks, and employés in their respective Departments at Washington, showing from what States they were respectively appointed," &c., Mr. Abbott, of North Carolina, moved the following addition: —

"*Resolved further*, That in the opinion of the Senate the distribution of the official patronage of the Government not embraced in local offices in the States should be made as nearly equal among all the States, according to their representation and population, as may be practicable; and that to confine such patronage to particular States or sections, either wholly or partially, is both unjust and injudicious."

On the latter resolution Mr. Sumner spoke as follows: —

MR. PRESIDENT, — If I have rightly read the history of my country, there was before Vicksburg an army commanded by three generals from Ohio, — General Grant, General Sherman, and General McPherson. Now, if I rightly understand the proposition of the Senator from North Carolina, he would require that the generals in command of our Army should be taken geographically, — not according to their merits, not according to their capacity to defend this Republic and to maintain with honor its flag, but simply according to the place of their residence, — and no three generals should be in command from one State. Do I understand the Senator aright?

MR. ABBOTT. My amendment reads, "as far as practicable."

MR. SUMNER. Very well, — "as far as practicable." I would inquire of my friend whether fitness for office or service in other departments of the Government does not depend upon capacity, talent, preparation, as much as in the Army? I ask the Senator if it is not so?

MR. ABBOTT. The purpose of this amendment was not to override all such considerations; it was to give an expression of the sense of the Senate that States should not be ignored in the distribution of this sort of patronage. Nothing in it prevents three generals from Ohio being in the command of one army, or the appointment of three Cabinet officers from Ohio; but it is simply to express the sense of the Senate that these things ought to be done with something like fairness and justice, as between the different States.

MR. SUMNER. I take it there is no Senator who does not accept the general idea of the Senator from North Carolina, that all things should be done in fairness, and that all parts of the country, every portion of this great Republic, should be treated with equal respect and honor. That is clear. But first and foremost above all is the public service: that must be maintained; it must not be sacrificed; and how can it be maintained, unless you advance to prominent posts in this service those who are the most meritorious, and who can best discharge the duties of the post?

I merely throw out this remark, and call attention to this point, that Senators may see to what this proposition tends. If it were fully carried out, it would reduce the public service of this country to one dead level. Men would go into it merely because they lived

in certain places, not because they had a fitness for the posts to which they were advanced. Perhaps I am mistaken, but I see no reason why there should be three Ohio generals in command before Vicksburg, and not three Ohio citizens in eminent civil service. To my mind the attainments and the talents required in civil service are as well worthy to be recognized as those that are required in military service, and I see no reason for a rule that shall allow talent to be taken without any reference to geographical limit in the military service which is not equally applicable to the civil service.

Now, as to our friends who have recently come into this Chamber, I beg them to understand, that, so far as I am concerned, there is no disposition to deny or to begrudge them anything to which, according to geographical proportions, they may be entitled; but I beg them to consider that time is an essential element of this transition through which we are passing.

MR. FESSENDEN. Will my friend allow me to make a suggestion to him?

MR. SUMNER. Certainly.

MR. FESSENDEN. I merely wish to allude to the notorious fact that for half a century before the Rebellion the proportion of persons in civil office in the Departments in Washington from the Southern States was very nearly, if not quite, two to one to those from all the other States. They had the control, and had pretty much all the offices, for years and years.

MR. SUMNER. We are now in a process of transition, and I was observing that time is an essential element in that process. What the Senator from North Caro-

lina aims at cannot be accomplished at once. The change cannot be made instantly. The men are not presented from the States lately in rebellion in sufficient numbers, in sufficient proportion, with competency for these posts. I know that there are gentlemen there fit to grace many of these posts, but I know also that there is not relatively the same proportion of persons fit for the civil service as there is in the other parts of the country; and our friends from the South, it seems to me, must take this into consideration kindly, and wait yet a little longer.

NATIONAL AFFAIRS AT HOME AND ABROAD.

SPEECH AT THE REPUBLICAN STATE CONVENTION IN WORCESTER, MASSACHUSETTS, SEPTEMBER 22, 1869.

MR. SUMNER was selected as President of the Convention. On taking the chair he spoke as follows: —

FELLOW-CITIZENS OF MASSACHUSETTS: —

WHILE thanking you for the honor conferred upon me, I make haste to say that in my judgment Massachusetts has one duty, at the coming election, to which all local interests and local questions must be postponed, as on its just performance all else depends; and this commanding duty is, to keep the Commonwealth, now as aforetime, an example to our country and a bulwark of Human Rights. Such was Massachusetts in those earlier days, when, on the continent of Europe, the name of "Bostonians" was given to our countrymen in arms against the mother country,[1] making this designation embrace all, — and when, in the British Parliament, the great orator, Edmund Burke, exclaimed, "The cause of Boston is become the cause of all America; every part of America is united in support of Boston; . . . . you have made Boston the Lord Mayor of America."[2] I quote these words from the Parliamentary Debates. But Boston was at that

[1] Mass. Hist. Soc. Coll., Vol. VI. p. 150.

[2] Speech in the House of Commons, December 5, 1774: Hansard's Parliamentary History, Vol. XVIII. col. 45.

time Massachusetts, and it was her stand for Liberty that made her name the synonym for all. And permit me to add, that, in choosing a presiding officer entirely removed from local issues, I find assurance of your readiness to unite with me in that *National Cause* which concerns not Massachusetts only, but every part of America, and concerns also our place and name as a nation.

The enemy here in Massachusetts would be glad to divert attention from the unassailable principles of the Republican Party; they would be glad to make you forget that support we owe to a Republican Administration, — also that support we owe to the measures of Reconstruction, and our constant abiding persistence for all essential safeguards not yet completely established. These they would hand over to oblivion, hoping on some local appeal to disorganize our forces, or, perhaps, obtain power to be wielded against the National Cause. Massachusetts cannot afford to occupy an uncertain position. Therefore I begin by asking you to think of our country, our whole country, — in other words, of *National Affairs at Home and Abroad.*

It is now four years since I had the honor of presiding at our annual Convention, and I do not forget how at that time I endeavored to remind you of this same National Cause, then in fearful peril.[1] The war of armies was ended; no longer was fellow-citizen arrayed against fellow-citizen; on each side the trumpet was hushed, the banner furled. But the defection of Andrew Johnson had then begun, and out of that defection the Rebellion assumed new life, with new purposes

[1] Speech, September 14, 1865: *Ante*, Vol. IX. pp. 437, seqq.

and new hopes. If it did not spring forth once more fully armed, it did spring forth filled with hate and diabolism towards all who loved the Union, whether white or black. There were exceptions, I know; but they were not enough to change the rule. And straightway the new apparition, acting in conjunction with the Northern Democracy, aboriginal allies of the Rebellion, planned the capture of the National Government. Its representatives came up to Washington. Then was the time for a few decisive words in the name of the Republic, on which for four years they had waged bloody war. The great dramatist, who has words for every occasion, anticipated this, when he said, —

> "Return thee, therefore, with a flood of tears,
> And wash away thy country's stained spots."

Such a mood would have been the beginning of peace. How easy to see that these men should have been admonished frankly and kindly to return home, there to plant, plough, sow, reap, buy, sell, and be prosperous, but not to expect any place in the copartnership of government until there was completest security for all! Instead of this, they were sent back plotting how to obtain ascendency at home as the stepping-stone to ascendency in the nation. Such was the condition of things in the autumn of 1865, when, sounding the alarm from this very platform, I insisted upon irreversible guaranties against the Rebellion, and especially on security to the national freedman and the national creditor. It was upon security that I then insisted, — believing, that, though the war of armies was ended, this was a just object of national care, all contained in the famous time-honored postulate of war, *Security for the Future*, without which peace is no better than armistice.

To that security one thing is needed, — simply this: All men must be safe in their rights, so that affairs, whether of government or business, shall have a free and natural course. But there are two special classes still in jeopardy, as in the autumn of 1865, — the National Freedman and the National Creditor, — each a creditor of the nation and entitled to protection, each under the guardianship of the public faith; and behind these are faithful Unionists, now suffering terribly from the growing reaction.

For the protection of the national freedman a Constitutional Amendment is presented for ratification, placing his right to vote under the perpetual safeguard of the nation; but I am obliged to remind you that this Amendment has not yet obtained the requisite number of States, nor can I say surely when it will. The Democratic Party is arrayed against it, and the Rebel interest unites with the Democracy. Naturally they go together. They are old cronies. Here let me say frankly that I have never ceased to regret, — I do now most profoundly regret, — that Congress, in its plenary powers under the Constitution, especially in its great unquestionable power to guaranty a republican government in the States, did not summarily settle this whole question, so that it should no longer disturb the country. It was for Congress to fix the definition of a republican government; nor need it go further than our own Declaration of Independence, where is a definition from which there is no appeal. There it is, as it came from our fathers, in lofty, self-evident truth; and Congress should have applied it. Or it might have gone to the speech of Abraham Lincoln at Gettysburg, where

again is the same great definition. There was also a decisive precedent. As Congress made a Civil Rights Law, so should it have made a Political Rights Law. In each case the power is identical. If it can be done in the one, it can be done in the other. To my mind nothing is clearer. Thus far Congress has thought otherwise. There remains, then, the slow process of Constitutional Amendment, to which the country must be rallied.

But this is not enough. No mere text of Constitution or Law is sufficient. Behind these must be a prevailing Public Opinion and a sympathetic Administration. Both are needed. The Administration must reinforce Public Opinion, and Public Opinion must reinforce the Administration. Such is all experience. Without these the strongest text and most cunning in its requirements is only a phantom, it may be of terror, as was the case with the Fugitive Slave Bill, — but not a living letter. It is not practically obeyed; sometimes it is evaded, sometimes openly set at nought. And now it is my duty to warn you that the national freedman still needs your care. His ancient master is already in the field conspiring against him. That traditional experience, that infinite audacity, that insensibility to Human Rights, which so long upheld Slavery, are aroused anew. No longer able to hold him as slave, the ancient master means to hold him as dependant, and to keep him in his service, personal and political, — thus substituting a new bondage for the old. Unhappily, he finds at the North a political party which the Rebellion has not weaned from that unnatural Southern breast whence it drew its primitive nutriment; and this

political party now fraternizes in the dismal work by which peace is postponed: for until the national freedman is safe in Equal Rights there can be no peace. You may call it peace, but I tell you it is not peace. It is peace only in name. Who does not feel that he treads still on smothered fires? Who does not feel his feet burn as he moves over the treacherous ashes? If I wished any new motive for opposition to the Democracy, I should find it in this hostile alliance. Because I am for peace so that this whole people may be at work, because I desire tranquillity so that all may be happy, because I seek reconciliation so that there shall be completest harmony, therefore I oppose the Democracy and now denounce it as Disturber of the National Peace.

The information from the South is most painful. Old Rebels are crawling from hiding-places to resume their former rule; and what a rule! Such as might be expected from the representatives of Slavery. It is the rule of misrule, where the "Ku-Klux-Klan" takes the place of missionary and schoolmaster. Murder is unloosed. The national freedman is the victim; and so is the Unionist. Not one of these States where intimidation, with death in its train, does not play its part. Take that whole Southern tier from Georgia to Texas, and add to it Tennessee, and, I fear, North Carolina and Virginia also, — for the crime is contagious, — and there is small justice for those to whom you owe so much. That these things should occur under Andrew Johnson was natural; that Reconstruction should encounter difficulties after his defection was natural. Andrew Johnson is now out of the way, and in his place a patriot President. Public Opinion must come to his support in

this necessary work. There is but one thing these disturbers feel; it is power; and this they must be made to feel: I mean the power of an awakened people, directed by a Republican Administration, vigorously, constantly, surely, so that there shall be no rest for the wicked.

If I could forget the course of the Democracy on these things, — as I cannot, — there is still another chapter for exposure; and the more it is seen, the worse it appears. It is that standing menace of Repudiation, by which the national credit at home and abroad suffers so much, and our taxes are so largely increased. It will not do to say that no National Convention has yet announced this dishonesty. I charge it upon the Party. A party which repudiates the fundamental principles of the Declaration of Independence, which repudiates Equality before the Law, which repudiates the self-evident truth that government is founded only on the consent of the governed, which repudiates what is most precious and good in our recent history, and whose chiefs are now engaged in cunning assault upon the national creditor, is a party of Repudiation. This is its just designation. A Democrat is a Repudiator. What is Slavery itself but an enormous wholesale repudiation of all rights, all truths, and all decencies? How easy for a party accepting this degradation to repudiate pecuniary obligations! These are small, compared with the other. Naturally the Democracy is once more in conjunction with the old Slave-Masters. The Repudiation Gospel according to Mr. Pendleton is now preaching in Ohio; and nothing is more certain than that the triumph of the Democracy would be a fatal

blow not only at the national freedman, but also at the national creditor. There would be repudiation for each.

The word "Repudiation," in its present sense, is not old. It first appeared in Mississippi, a Democratic State intensely devoted to Slavery. If the thing were known before, never before did it assume the same hardihood of name. It was in 1841 that a Mississippi Governor, in a Message to the Legislature, used this word with regard to certain State bonds, and thus began that policy by which Mississippi was first dishonored and then kept poor: for capital was naturally shy of such a State. Constantly, from that time, Mississippi had this "bad eminence"; nor is the State more known as the home of Jefferson Davis than as the home of Repudiation. Unhappily, the nation suffered also; and even now, as I understand, it is argued in Europe, to our discredit, that, because Mississippi repudiated, the nation may repudiate also. If I refer to this example, it is because I would illustrate the mischief of the Democratic policy and summon Mississippi to tardy justice. A regenerated State cannot afford to bear the burden of Repudiation; nor can the nation and the sisterhood of States forget misconduct so injurious to all.

I have pleasure, at this point, in reference to an early effort in the "North American Review," by an able lawyer, for a time an ornament of the Supreme Court of the United States, Hon. B. R. Curtis, who, after reviewing the misconduct of Mississippi, argues most persuasively, that, where a State repudiates its obligations, to the detriment of foreigners, there is a remedy through the National Government. This suggestion is important for Mississippi now. But the article contains another

warning, applicable to the nation at the present hour, which I quote: —

"The conduct of a few States has not only destroyed their own credit and left their sister States very little to boast of, but has so materially affected the credit of the whole Union that it was found impossible to negotiate in Europe any part of the loan authorized by Congress in 1842. It was offered on terms most advantageous to the creditor, terms which in former times would have been eagerly accepted; and after going a-begging through all the exchanges of Europe, the agent gave up the attempt to obtain the money, in despair." [1]

As the fallen drunkard illustrates the evils of intemperance, so does Mississippi illustrate the evils of Repudiation. Look at her! But there are men who would degrade our Republic to this wretched condition. Forgetting what is due to our good name as a nation at home and abroad, — forgetting that the public interests are bound up with the Public Faith, involving all economies, national and individual, — forgetting that our transcendent position has corresponding obligations, and that, as Nobility once obliged to great duty, ("*Noblesse oblige*,") so does Republicanism now, — there are men who, forgetting all these things, would carry our Republic into this terrible gulf, so full of shame and sacrifice. They begin by subtle devices; but already the mutterings of open Repudiation are heard. I denounce them all, whether device or muttering; and I denounce that political party which lends itself to the outrage.

Repudiation means Confiscation, and in the present case confiscation of the property of loyal citizens. With

[1] North American Review for January, 1844, Vol. LVIII. p. 150.

unparalleled generosity the nation has refused to confiscate Rebel property; and now it is proposed to confiscate Loyal property. When I expose Repudiation as Confiscation, I mean to be precise. Between two enactments, one requiring the surrender of property without compensation, and the other declaring that the nation shall not and will not pay an equal amount according to solemn promise, there can be no just distinction. The two are alike. The former might alarm a greater number, because on its face more demonstrative. But analyze the two, and you will see that in each private property is taken by the nation without compensation, and appropriated to its own use. Therefore do I say, Repudiation is Confiscation.

A favorite device of Repudiation is to pay the national debt in "greenbacks," — in other words, to pay bonds bearing interest with mere promises not bearing interest, — violating, in the first place, a rule of honesty, which forbids such a trick, and, in the second place, a rule of law, which refuses to recognize an inferior obligation as payment of a superior. Here, in plain terms, is repudiation of the interest and indefinite postponement of the principal. This position, when first broached, contemplated nothing less than an infinite issue of greenbacks, flooding the country, as France was flooded by *assignats*, and utterly destroying values of all kinds. Although, in its present more moderate form, it is limited to payment by existing greenbacks, yet it has the same radical injustice. Interest-bearing bonds are to be paid with non-interest-bearing bits of paper. The statement of the case is enough. Its proposer would never do this thing in his own affairs; but how can he

ask his country to do what honesty forbids in private life?

Another device is to tax the bonds, when the money was lent on the positive condition that the bonds should not be taxed. This, of course, is to break the contract in another way. It is Repudiation in another form.

To argue these questions is happily unnecessary, and I allude to them only because I wish to exhibit the loss to the country from such attempts. This can be made plain as a church-door.

The total debt of our country on the 1st September, aside from the sixty millions of bonds issued to the Pacific Railway, was $2,475,962,501; and here I mention, with great satisfaction, that since the 1st March last the debt has been reduced $49,500,758. The surplus revenue now accruing is not less than $100,000,000 a year, and will be, probably, not less than $125,000,000 a year, of which large sum not less than $75,000,000 must be attributed to the better enforcement of the laws and the economy now prevailing under a Republican Administration. And here comes the practical point. Large as is our surplus revenue, it should have been more, and would have been more but for the Repudiation menaced by the Democracy.

If we look at our bonded debt, we find it is now $2,107,936,300, upon which we pay not less than $124,000,000 in annual interest, the larger part at six per cent., the smaller at five per cent., gold. The difference between this interest and that paid by other powers is the measure of our annual loss. English three per cents. and French fours are firm in the market; but England and France have not the same im-

measurable resources that are ours, nor is either so secure in its government. It is easy to see that our debt could have been funded without paying more than four per cent., but for the doubt cast upon our credit by the dishonest schemes of Repudiation. "Payment in Greenbacks" and "Taxation of Bonds" are costly cries. Without these there would have been $40,000,000 annually to swell our surplus revenue. But this sum, if invested in a sinking fund at four per cent. interest, would pay the whole bonded debt in less than thirty years. Such is our annual loss.

The sum-total of this loss directly chargeable upon the Repudiators is more than one hundred millions, already paid in taxes; and much I fear, fellow-citizens, that, before the nation can recover from the discredit inflicted upon it, another hundred millions will be paid in the same way. It is hard to see this immense treasure wrung by taxation from the toil of the people to pay these devices of a dishonest Democracy. Do not forget that the cost of this experiment is confined to no particular class. Wherever the tax-gatherer goes, there it is paid. Every workman pays it in his food and clothing; every mechanic and artisan, in his tools; every housewife, in her cooking-stove and flat-iron; every merchant, in the stamp upon his note; every man of salary, in the income tax; ay, every laborer, in his wood, his coal, his potatoes, and his salt. Many of these taxes, imposed under duress of war, will be removed soon, I trust; but still the enormous sum of forty millions annually must be contributed by the labor of the country, until the world is convinced, that, in spite of Democratic menace, the Republic will maintain its plighted faith to the end.

People wish to reduce taxation. I tell you how. Let no doubt rest upon the Public Faith. Then will the present burdensome taxation grow "fine by degrees and beautifully less." *It is the doubt which costs.* It is with our country, as with an individual, — the doubt obliges the payment of *extra interest.* To stop that extra interest we must keep faith.

As we look at the origin of the greenback, we shall find a new motive for fidelity. I do not speak of that patriotic character which commends the national debt, but of the financial principle on which the greenback was first issued. It came from the overruling exigencies of self-defence. The national existence depended upon money, which could be had only through a forced loan. The greenback was the agency by which it was collected. The disloyal party resisted the passage of the original Act, prophesying danger and difficulty; but the safety of the nation required the risk, and the Republican Party assumed it. And now this same disloyal party, once against the greenback, insist upon continuing in peace what was justified only in war, — insist upon a forced loan, when the overruling exigencies of self-defence have ceased, and the nation is saved. To such absurdity is this party now driven.

The case is aggravated, when we consider the boundless resources of the country, through which in a short time even this great debt will be lightened, if the praters of Repudiation are silenced. Peace, financially as well as politically, is needed. Let us have peace. Nowhere will it be felt more than at the South, which is awakening to a consciousness of resources unknown while Slavery ruled. With these considerable additions

to the national capital, five years cannot pass without a sensible diminution of our burdens. A rate of taxation, *per capita*, equal to only one half that of 1866, will pay even our present interest, all present expenses, and the entire principal, in less than twenty years. But to this end we must keep faith.

The attempt is aggravated still further, when it is considered that Repudiation is impossible. Try as you may, you cannot succeed. You may cause incalculable distress, and postpone the great day of peace, but you cannot do this thing. The national debt never can be repudiated. It will be paid, dollar for dollar, in coin, with interest to the end.

How little do these Repudiators know the mighty resisting power which they encounter! how little, the mighty crash which they invite! As well undertake to move Mount Washington from its everlasting base, or to shut out the ever-present ocean from our coasts. It is needless to say that the crash would be in proportion to the mass affected, being nothing less than the whole business of the country. Now it appears from investigations making at this moment by Commissioner Wells, whose labors shed such light on financial questions, that *our annual product reaches the sum of seven thousand millions of dollars.*[1] But this prodigious amount depends for its value upon exchange, which in turn depends upon credit. Destroy exchange, and even these untold resources would be an infinite chaos, without form and void. Employment would cease, capital would waste, mills would stop, the rich would become poor, —

[1] Report of the Special Commissioner of the Revenue for 1868: Executive Documents, 40th Cong. 3d Sess., H. of R., No. 16, p. 7.

the poor, I fear, would starve. Savings banks, trust companies, insurance companies would disappear. Such would be the mighty crash; but here you see also the mighty resisting power. Therefore, again do I say, Repudiation is impossible.

Mr. Boutwell is criticized by the Democracy because he buys up bonds, paying the current market rates, when he should pay the face in greenbacks. I refer to this Democratic criticism because I would show how little its authors look to consequences while forgetting the requirements of Public Faith. Suppose the Secretary, yielding to these wise suggestions, should announce his purpose to take up the first ten millions of five-twenties, paying the face in greenbacks. What then? "After us the deluge," said the French king; and so, after such notice from our Secretary, would our deluge begin. At once the entire bonded debt would be reduced to greenbacks. The greenback would not be raised; the bond would be drawn down. All this at once, — and in plain violation of the solemn declaration of both Houses of Congress pledging payment in coin. But who can measure the consequences? Bonds would be thrown upon the market. From all points of the compass, at home and abroad, they would come. Business would be disorganized. Prices would be changed. Labor would be crushed. The fountains of the great deep would be broken up, and the deluge would be upon us.

Among the practical agencies to which the country owes much already are the National Banks. Whatever may be the differences of opinion with regard to them, they cannot fail to be taken into account in all financial

discussions. As they have done good where they are now established, I would gladly see them extended, especially at the South and West, where they are much needed, and where abundant crops already supply the capital. It is doubtful if this can be brought about without removing the currency limitation in the existing Bank Act.[1] In this event I should like the condition that for every new bank-note issued a greenback should be cancelled, thus substituting the bank-note for the greenback. In this way greenbacks would be reduced in volume, while currency is supplied by the banks. Such diminution of the national paper would be an important stage toward specie payments, while the national banks in the South and West, founded on the bonds of the United States, would be a new security for the national credit.

In making this suggestion, I would not forget the necessity of specie payments at the earliest possible moment; nor can I forbear to declare my unalterable conviction that by proper exertion this supreme object may be accomplished promptly, — always provided the national credit is kept above suspicion, or, like the good knight, "without fear and without reproach."

Thus, fellow-citizens, at every turn are we brought back to one single point, the Public Faith, which cannot be dishonored without infinite calamity. The child is told not to tell a lie; but this injunction is the same for the full-grown man, and for the nation also. We cannot tell a lie to the national freedman or the national creditor; we cannot tell a lie to anybody. That

[1] $300,000,000. — Act of June 3, 1864, Sec. 22: Statutes at Large, Vol. XIII. pp. 105–6.

word of shame cannot be ours. But falsehood to the national freedman and the national creditor is a national lie. Breaking promise with either, you are dishonored, and *Liar* must be stamped upon the forehead of the nation. Beyond the ignominy, which all of us must bear, will be the influence of such a transgression in discrediting Republican Government and the very idea of a Republic. For weal or woe, we are an example. Mankind is now looking to us, and just in proportion to the eminence we have reached is the eminence of our example. Already we have shown how a Republic can conquer in arms, offering millions of citizens and untold treasure at call. It remains for us to show how a Republic can conquer in a field more glorious than battle, where all these millions of citizens and all this untold treasure uphold the Public Faith. Such an example will elevate Republican Government, and make the idea of a Republic more than ever great and splendid. Helping here, you help not only your own country, but help Humanity also, — help liberal institutions in all lands, — help the down-trodden everywhere, and all who struggle against the wrong and tyranny of earth.

The brilliant Frenchman, Montesquieu, in that remarkable work which occupied so much attention during the last century, "The Spirit of Laws," pronounces *Honor* the animating sentiment of Monarchy, but *Virtue* the animating sentiment of a Republic.[1] It is for us to show that he was right; nor can we depart from this rule of Virtue without disturbing the order of the universe. Faith is nothing less than a part of that sublime harmony by which the planets wheel surely in their appointed orbits, and nations are summoned to justice.

[1] De l'Esprit des Lois, Liv. III. chs. 3, 6.

Nothing too lofty for its power, nothing too lowly for its protection. It is an essential principle in the divine Cosmos, without which confusion reigns supreme. All depends upon Faith. Why do you build? Because you have faith in those laws by which you are secured in person and property. Why do you plant? why do you sow? Because you have faith in the returning seasons, faith in the generous skies, faith in the sun. But faith in this Republic must be fixed as the sun, which illumines all. I cannot be content with less. Full well I see that every departure from this great law is only to our ruin, and from the height we have reached the tumble will be like that of the Grecian god from the battlements of Heaven: —

> "From morn
> To noon he fell, from noon to dewy eve,
> A summer's day, and with the setting sun
> Dropped from the zenith like a falling star." [1]

It only remains, come what may, that we should at all hazards preserve this Public Faith, — never forgetting that honesty is not only the best policy, but the Golden Rule. For myself, I see nothing more practical, at this moment, than, first, at all points to oppose the Democracy, and, secondly, to insist that yet awhile longer ex-Rebels shall be excused from copartnership in government. Do not think me harsh; do not think me austere. I am not. I will not be outdone by anybody in clemency; nor at the proper time will I be behind any one in opening all doors of office and trust. But the proper time has not yet come. There must be security for the future, unquestionable and ample, before I am ready; and this I would require not only for

[1] Paradise Lost, Book I. 742-5.

the sake of the national freedman and the national creditor, but for the sake of the country containing the interests of all, and also of the ex-Rebel himself, whose truest welfare is in that peace where all controversy shall be extinguished forever. In this there is nothing but equity and prudence according to received precedents. The ancient historian declares that the ancestors of Rome, the most religious of men, took nothing from the vanquished but the license to do wrong: "*Nostri majores, religiosissimi mortales, ... neque victis quicquam præter injuriæ licentiam eripiebant.*"[1] These are the words of Sallust. I know no better example for our present guidance. Who can object, if men recently arrayed against their country are told to stand aside yet a little longer, until all are secure in their rights? Here is no fixed exclusion, — nothing of which there can be any just complaint, — nothing which is not practical, wise, humane, — nothing which is not born of justice rather than victory. In the establishment of Equal Rights conquest loses its character, and is no longer conquest; —

> "For then both parties nobly are subdued,
> And neither party loser."[2]

Even in the uncertainty of the future it is easy to see that the national freedman and the national creditor have a common fortune. In the terrible furnace of war they were joined together, nor can they be separated until the rights of both are fixed beyond change. Therefore, could my voice reach them, I would say, "Freedman, stand by the creditor! Creditor, stand by the freedman!" And to the people I would say, "Stand by both!"

[1] Sallust, Catilina, Cap. 12.

[2] 2 Henry IV., Act IV. Scene 2.

FROM affairs at home I turn to affairs abroad, and here I wish to speak cautiously. In speaking at all I break a vow with myself not to open my lips on these questions except in the Senate. I yield to friendly pressure. And yet I know no reason why I should not speak. It was Talleyrand who, to somebody apologizing for what might be an indiscreet question, replied, that an answer might be indiscreet, but not a question. My answer shall at least be frank.

In our foreign relations there are with me two cardinal principles, which I have no hesitation to avow at all times: first, peace with all the world; and, secondly, sympathy with all struggling for Human Rights. In neither of these would I fail; for each is essential. Peace is our all-conquering ally. Through peace the whole world will be ours. "Still in the right hand carry gentle peace," and there is nothing we cannot do. Filled with the might of peace, the sympathy we extend will have a persuasive power. Following these plain principles, we should be open so that foreign nations shall know our sentiments, and in such way that even where there is a difference there shall be no just cause for offence.

In this spirit I would now approach Spain. Who can forget that great historic monarchy, on whose empire, encircling the globe, the sun never set? Patron of that renowned navigator through whom she became the discoverer of this hemisphere, her original sway within it surpassed that of any other power. At last her extended possessions on the main, won by Cortés and Pizarro, loosed themselves from her grasp, to take their just place in the Family of Nations. Cuba and Porto

Rico, rich islands of the Gulf, remained. And now Cuban insurgents demand independence also. For months they have engaged in deadly conflict with the Spanish power. Ravaged provinces and bloodshed are the witnesses. The beautiful island, where sleeps Christopher Columbus, with the epitaph that he gave to Castile and Leon a new world,[1] is fast becoming a desert, while the nation to which he gave the new world is contending for its last possession there. On this simple statement two questions occur: first, as to the duty of Spain; and, secondly, as to the duty of the United States.

Unwelcome as it may be to that famous Castilian pride which has played so lofty a part in modern Europe, Spain must not refuse to see the case in its true light; nor can she close her eyes to the lesson of history. She must recall how the Thirteen American Colonies achieved independence against all the power of England, — how all her own colonies on the American main achieved independence against her own most strenuous efforts, — how at this moment England is preparing to release her Northern colonies from their con-

[1] Not a transcript of the famous epitaph on the tomb at Seville, —

"A Castilla y á Leon
Nuevo mundo dió Colon," —

("To Castile and Leon Columbus gave a new world,") —

but part of a Latin inscription, to the same effect, on a mural tablet in the Cathedral at Havana, the last resting-place of the remains of the great navigator: —

"Claris. heros Ligustin. CHRISTOPHORUS COLOMBUS a se rei nautic. scient. insign. nov. orb. detect. atque Castell. et Legion. regib. subject.," etc. —

Literally rendered, "The most illustrious Genoese hero, CHRISTOPHER COLUMBUS, by himself, through remarkable nautical science, a new world having been discovered and subjected to the kings of Castile and Leon," etc.

See MASSE, *L'Isle de Cuba et La Havane*, (Paris, 1825,) p. 201.

dition of dependence; and recalling these examples, it will be proper for her to consider if they do not illustrate a tendency of all colonies, which was remarked by an illustrious Frenchman, even before the independence of the United States. Never was anything more prophetic in politics than when Turgot, in 1750, speaking of the Phœnician colonies in Greece and Asia Minor, said: "Colonies are like fruits, which hold to the tree only until their maturity: when sufficient for themselves, they did that which Carthage afterwards did, — *that which some day America will do.*"[1] These most remarkable words of the philosopher-statesman will be found in his Discourse at the Sorbonne; and now for their application. Has not Cuba reached his condition of maturity? Is it not sufficient for itself? At all events, is victory over a colony contending for independence worth the blood and treasure it will cost? These are serious questions, which can be answered properly only by putting aside all passion and prejudice of empire, and calmly confronting the actual condition of things. Nor must the case of Cuba be confounded for a moment with our wicked Rebellion, having for its object the dismemberment of a Republic, to found a new power with Slavery as its vaunted corner-stone. For myself, I cannot doubt, that, in the interest of both parties, Cuba and Spain, and in the interest of humanity also, the contest should be closed. This is my judgment on the facts, so far as known to me. Cuba must be saved from its bloody delirium, or little will be left for the final conqueror. Nor can the enlightened mind fail to see that the Spanish power on this island is an

[1] Discours sur les Progrès successifs de l'Esprit Humain: Œuvres, éd. Daire, (Paris, 1844,) Tom. II. p. 602.

anachronism. The day of European colonies has passed, — at least in this hemisphere, where the rights of man were first proclaimed and self-government first organized. A governor from Europe, nominated by a crown, is a constant witness against these fundamental principles.

As the true course of Spain is clear, so to my mind is the true course of the United States equally clear. It is to avoid involving ourselves in any way. Enough of war have we had, without heedlessly assuming another; enough has our commerce been driven from the ocean, without heedlessly arousing another enemy; enough of taxation are we compelled to bear, without adding another mountain. Two policies were open to us at the beginning of the insurrection. One was to unite our fortunes with the insurgents, assuming the responsibilities of such an alliance, with the hazard of letters-of-marque issued by Spain and of public war. I say nothing of the certain consequences in expenditure and in damages. A Spanish letter-of-marque would not be less destructive than the English Alabama. The other policy was to make Spain feel that we wish her nothing but good, — and that, especially since the expulsion of her royal dynasty, we cherish for her a cordial and kindly sympathy. It is said that republics are ungrateful; but I would not forget that at the beginning of our Revolutionary struggle our fathers were aided by her money, as afterwards by her arms, and that her great statesman, Florida Blanca, by his remarkable energies determined the organization of that Armed Neutrality in Northern Europe which turned the scale against England,[1] — so that John Adams declared, "We

[1] Coxe, Memoirs of the Kings of Spain of the House of Bourbon, Ch. LXXIII.

owe the blessings of peace to the Armed Neutrality."[1] I say nothing of the motives by which Spain was then governed. It is something that in our day of need she lent us a helping hand.

It is evident, that, adopting the first policy, we should be powerless, except as an enemy. The second policy may enable us to exercise an important influence.

The more I reflect upon the actual condition of Spain, the more I am satisfied that the true rule for us is non-intervention, except in the way of good offices. This ancient kingdom is now engaged in comedy and tragedy. You have heard of *Hunting the Slipper*. The Spanish comedy is *Hunting a King*. The Spanish tragedy is sending armies against Cuba. I do not wish to take part in the comedy or the tragedy. If Spain is wise, she will give up both. Meanwhile we have a duty which is determined by International Law. To that venerable authority I repair. What that prescribes I follow.

By that law, as I understand it, nations are not left to any mere caprice. There is a rule of conduct which they must follow, subject always to just accountability where they depart from it. On ordinary occasions there is no question; for it is with nations as with individuals. It is only where the rule is obscure or precedents are uncertain that doubt arises, as with some persons now. Here I wish to be explicit. Belligerence is a "fact," attested by evidence. If the "fact" does not exist, there is nothing to recognize. The fact cannot be invented or imagined; it must be proved. No mat-

[1] Letter to Robert R. Livingston, December 14, 1782: Diplomatic Correspondence of the American Revolution, ed. Sparks, Vol. VII. p. 4.

ter what our sympathy, what the extent of our desires, we must look at the fact. There may be insurrection without reaching this condition, which is at least the half-way house to independence. The Hungarians, when they rose against Austria, obtained no such recognition, although they had large armies in the field, and Kossuth was their governor; the Poles, in repeated insurrections against Russia, obtained no such recognition, although the conflict made Europe vibrate; the Sepoys and Rajahs of India failed also, although for a time the English empire hung trembling; nor, in my opinion, were our slave-mad Rebels ever entitled to such recognition, — for, whatever the strength of the Rebellion on land, it remained, as in the case of Hungary, of Poland, of India, without those Prize Courts which are absolutely essential to recognition by foreign powers. *A cruiser without accountability to Prize Courts is a lawless monster which civilized nations cannot sanction.* Therefore the Prize Court is the condition-precedent; nor is this all. If the Cuban insurgents have come within any of the familiar requirements, I have never seen the evidence. They are in arms, I know. But where are their cities, towns, provinces? where their government? where their ports? where their tribunals of justice? and where their Prize Courts? To put these questions is to answer them. How, then, is the "fact" of belligerence?

There is another point in the case, which is with me final. Even if they come within the prerequisites of International Law, I am unwilling to make any recognition of them so long as they continue to hold human beings as slaves, which I understand they now do. I am told that there was a decree in May last, purporting

to be signed by Cespedes, abolishing slavery; then I am told of another decree in July, maintaining slavery. There is also the story of a pro-slavery constitution to be read at home, and an anti-slavery constitution to be read abroad. Nor is there any evidence that any decree or constitution has had any practical effect. In this uncertainty I shall wait, even if all other things are propitious. In any event there must be Emancipation.

On the recognition of belligerence there is much latitude of opinion, — some asserting that a nation may take this step whenever it pleases; but this pretension excludes the idea that belligerence is always a question of fact on the evidence. Undoubtedly an independent nation may do anything in its power, whenever it pleases, — but subject always to just accountability, if another suffers from what it does. This may be illustrated in the three different cases of war, independence, and belligerence. In each case the declaration is an exercise of high prerogative, inherent in every nation, and kindred to that of eminent domain; but a nation declaring war without just cause becomes a wrong-doer; a nation recognizing independence where it does not exist in fact becomes a wrong-doer; and so a nation recognizing belligerence where it does not exist in fact becomes a wrong-doer also. Any present uncertainty on this last point I attribute to the failure of precedents sufficiently clear and authoritative; but with me there is one rule in such a case which I cannot disobey. In the absence of any precise injunction, I do not hesitate to adopt that interpretation of International Law which most restricts war and all that makes for war, — believing that in this way I shall best promote

civilization and obtain new security for international peace.

From the case of Spain I pass to the case of England, contenting myself with a brief explanation. On this subject I have never spoken except with pain, as I have been obliged to expose a great transgression. I hope to say nothing now which shall augment difficulties, — although, when I consider how British anger was aroused by an effort in another place,[1] judged by all who heard it most pacific in character, I do not know that even these few words may not be misinterpreted.

There can be no doubt that we received from England incalculable wrong, — greater, I have often said, than was ever before received by one civilized power from another, short of unjust war. I do not say this in bitterness, but in sadness. There can be no doubt, that, through English complicity, our carrying-trade was transferred to English bottoms, — our foreign commerce sacrificed, while our loss was England's gain, — our blockade rendered more expensive, — and generally, that our war, with all its fearful cost of blood and treasure, was prolonged indefinitely. This terrible complicity began with the wrongful recognition of Rebel belligerence, under whose shelter pirate ships were built and supplies sent forth. All this was at the very moment of our mortal agony, in the midst of a struggle for national life; and it was done in support of Rebels whose single declared object of separate existence as a nation was Slavery, being in this respect clearly distinguishable from an established power where slavery is tol-

[1] Speech in Executive Session of the Senate on the Johnson-Clarendon Treaty, April 13, 1869: *Ante*, pp. 53, seqq.

erated without being made the vaunted corner-stone. Such is the case. Who shall fix the measure of this great accountability? For the present it is enough to expose it. I make no demand, — not a dollar of money, not a word of apology. I show simply what England has done to us. It will be for her, on a careful review of the case, to determine what reparation to offer; it will be for the American people, on a careful review of the case, to determine what reparation to require. On this head I content myself with the aspiration that out of this surpassing wrong, and the controversy it has engendered, may come some enduring safeguard for the future, some landmark of Humanity. Then will our losses end in gain for all, while the Law of Nations is elevated. But I have little hope of any adequate settlement, until our case, in its full extent, is heard. In all controversies the first stage of justice is to understand the case; and sooner or later England must understand ours.

The English arguments, so far as argument can be found in the recent heats, have not in any respect impaired the justice of our complaint. Loudly it is said that there can be no sentimental damages, or damages for wounded feelings; and then our case is dismissed, as having nothing but this foundation. Now, without undertaking to say that there is no remedy in the case supposed, I wish it understood that our complaint is for damages traced directly to England. If the amount is unprecedented, so also is the wrong. The scale of damages is naturally in proportion to the scale of operations. Who among us doubts that these damages were received? Call them what you please, to this extent the nation lost. The records show how our commerce

suffered, and witnesses without number testify how the blockade was broken and the war prolonged. Ask any of our great generals,—ask Sherman, Sheridan, Thomas, Meade, Burnside,—ask Grant. In view of this transcendent wrong, it is a disparagement of International Law to say that there is no remedy. An eminent English judge once pronounced from the bench that "the law is astute to find a remedy"; but no astuteness is required in this case,—nothing but simple justice, which is always the object of a true diplomacy. How did the nation suffer? To what extent? These are the practical questions. No technicality can be set up on either side. *Damages* are *damages*, no matter by what artificial term they may be characterized. Opposing them as *consequential* shows the disposition to escape by technicality, even while confessing an equitable liability,—since England is bound for *all the consequences* of her conduct, bound under International Law, which is a Law of Equity always, and bound, no matter how the damages occurred, *always provided they proceeded from her.* Because the damages are national, because all suffered instead of one, this is no reason for immunity on her part.

Then it is said, "Why not consider our good friends in England, and especially those noble working-men who stood by us so bravely?" We do consider them always, and give them gratitude for their generous alliance. They belong to what our own poet has called "the nobility of labor." But they are not England. We trace no damages to them, nor to any class, high or low, but to England, corporate England, through whose Government we suffered.

Then, again, it is said, "Why not exhibit an account

against France?" For the good reason, that, while France erred with England in recognition of Rebel belligerence, no pirate ships or blockade-runners were built under shelter of this recognition to prey upon our commerce. The two cases are wide asunder, and they are distinguished by two different phrases of the Common Law. The recognition of Rebel belligerence in France was wrong without injury; but that same recognition in England was wrong with injury, and it is of this unquestionable injury that we complain.

Fellow-citizens, it cannot be doubted that this great question, so long as it continues pending, will be a cloud always upon the relations of two friendly powers, when there should be sunshine. Good men on both sides should desire its settlement, and in such way as most to promote good-will, and make the best precedent for civilization. But there can be no good-will without justice, nor can any "snap judgment" establish any rule for the future. Nothing will do now but a full inquiry, without limitation or technicality, and a candid acceptance of the result. There must be equity, which is justice without technicality.

Sometimes there are whispers of territorial compensation, and Canada is named as the consideration. But he knows England little, and little also of that great English liberty from Magna Charta to the Somerset case, who supposes that this nation could undertake any such transfer. And he knows our country little, and little also of that great liberty which is ours, who supposes that we could receive such a transfer. On each side there is impossibility. Territory may be conveyed, but not a people. I allude to this suggestion only be-

SOUTHBRIDGE.
PUBLIC LIBRARY.
DISCARDED.

cause, appearing in the public press, it has been answered from England.

But the United States can never be indifferent to Canada, nor to the other British provinces, near neighbors and kindred. It is well known historically, that, even before the Declaration of Independence, our fathers hoped that Canada would take part with them. Washington was strong in this hope; so was Franklin. The Continental Congress, by solemn resolution, invited Canada, and then appointed a Commission, with Benjamin Franklin at its head, "to form an Union between the United Colonies and the people of Canada." In the careful instructions of the Congress, signed in their behalf by John Hancock, President, the Commissioners are, among other things, enjoined "in the strongest terms to assure the people of Canada that it is our earnest desire to adopt them into our Union as a sister Colony, and to secure the same general system of mild and equal laws for them and for ourselves, with only such local differences as may be agreeable to each Colony respectively"; and further, that in the judgment of the Congress "their interest and ours are inseparably united."[1]

Long ago the Continental Congress passed away, living only in its deeds. Long ago the great Commissioner rested from his labors, to become a star in our firmament. But the invitation survives, not only in the archives of our history, but in all American hearts, constant and continuing as when first issued, believing, as we do, that such a union, in the fulness of time, with

[1] Journals of Congress, October 26, 1774; May 29, 1775; January 24, February 15, March 20, 1776. American Archives, 4th Ser., Vol. I. coll. 930-4; II. 1838-9; IV. 1653, 1672; V. 411-13, 1643-5.

the good-will of the mother country and the accord of both parties, must be the harbinger of infinite good. Nor do I doubt that this will be accomplished. Such a union was clearly foreseen by the late Richard Cobden, who, in a letter to myself, bearing date, London, 7th November, 1849, wrote:—

"I agree with you that Nature has decided that *Canada and the United States must become one* for all purposes of intercommunication. Whether they also shall be united in the same Federal Government must depend upon the two parties to the union. I can assure you that there will be no repetition of the policy of 1776 on our part, to prevent our North American colonies from pursuing their interests in their own way. If the people of Canada are tolerably unanimous in wishing to sever the very slight thread which now binds them to this country, I see no reason why, if good faith and ordinary temper be observed, it should not be done amicably."

Nearly twenty years have passed since these prophetic words, and enough has already taken place to give assurance of the rest. "Reciprocity," once established by treaty, and now so often desired on both sides, will be transfigured in Union, while our Plural Unit is strengthened and extended.

The end is certain; nor shall we wait long for its mighty fulfilment. Its beginning is the establishment of peace at home, through which the national unity shall become manifest. This is the first step. The rest will follow. In the procession of events it is now at hand, and he is blind who does not discern it. From the Frozen Sea to the tepid waters of the Mexican Gulf, from the Atlantic to the Pacific, the whole vast continent, smiling with outstretched prairies, where the coal-

fields below vie with the infinite corn-fields above, — teeming with iron, copper, silver, and gold, — filling fast with a free people, to whom the telegraph and steam are constant servants, — breathing already with schools, colleges, and libraries, — interlaced by rivers which are great highways, — studded with inland seas where fleets are sailing, and "poured round all old Ocean's" constant tides, with tributary commerce and still expanding domain, — such will be the Great Republic, One and Indivisible, with a common Constitution, a common Liberty, and a common Glory.

THE QUESTION OF CASTE.

LECTURE DELIVERED IN THE MUSIC HALL, BOSTON, OCTOBER 21, 1869.

> Man is a name of honor for a king;
> Additions take away from each chief thing.
> CHAPMAN, *Bussy d'Ambois*, Act IV. Sc. 1.

All men have the same rational nature and the same powers of conscience, and all are equally made for indefinite improvement of these divine faculties, and for the happiness to be found in their virtuous use. Who that comprehends these gifts does not see that the diversities of the race vanish before them? — CHANNING, *Slavery:* Works, Vol. II. p. 21.

The Christian philosopher sees in every man a partaker of his own nature and a brother of his own species. — CHALMERS, *Utility of Missions:* Works, Vol. XI. p. 244.

LECTURE.

MR. PRESIDENT, — In asking you to consider the Question of Caste, I open a great subject of immediate practical interest. Happily, Slavery no longer exists to disturb the peace of our Republic; but it is not yet dead in other lands, while among us the impious pretension of this great wrong still survives against the African because he is black and against the Chinese because he is yellow. Here is nothing less than the claim of hereditary power from color; and it assumes that human beings cast in the same mould with ourselves, and in all respects *men*, with the same title of manhood that we have, may be shut out from Equal Rights on account of the skin. Such is the pretension, plainly stated.

On other occasions it has been my duty to show how inconsistent is this pretension with our character as a Republic, and with the promises of our fathers, — all of which I consider it never out of order to say and to urge. But my present purpose is rather to show how inconsistent it is with that sublime truth, being part of God's law for the government of the world, which teaches the Unity of the Human Family, and its final harmony on earth. In this law, which is both commandment and promise, I find duties and hopes,

— perpetual duties never to be postponed, and perpetual hopes never to be abandoned, so long as Man is Man.

Believing in this law, and profoundly convinced that by the blessing of God it will all be fulfilled on earth, it is easy to see how unreasonable is a claim of power founded on any unchangeable physical incident derived from birth. Because man is black, because man is yellow, he is none the less Man; because man is white, he is none the more Man. By this great title he is universal heir to all that Man can claim. Because he is Man, and not on account of color, he enters into possession of the promised dominion over the animal kingdom, — "over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth." But this equal copartnership without distinction of color symbolizes equal copartnership in all the Rights of Man.

As I enter upon this important theme, I confess an unwelcome impediment, partly from the prevailing prejudice of color, which has become with many what is sometimes called a second nature, and partly from the little faith among men in the future development of the race. The cry, "A white man's government," which is such an insult to human nature, has influence in the work of degradation. Accustomed to this effrontery, people do not see its ineffable absurdity, which is made conspicuous, if they simply consider the figure our fathers would have cut, had they declared the equal rights of *white* men, and not the equal rights of *men*. The great Declaration was axiomatic and self-evident because universal; confined to a class, it would have been

neither. Hearkening to this disgusting cry, people close the soul to all the quickening voices, whether of prophet, poet, or philosopher, by which we are encouraged to persevere; nor do they heed the best lessons of science.

I begin by declaring an unalterable faith in the Future, which nothing can diminish or impair. Other things I may renounce, but this I cannot. Throughout a life of controversy and opposition, frequently in a small minority, sometimes almost alone, I have never for a moment doubted the final fulfilment of the great promises for Humanity without which this world would be a continuing chaos. To me it was clear from the beginning, even in the early darkness, and then in the bloody mists of war, that Slavery must yield to well-directed efforts against it; and now it is equally clear that every kindred pretension must yield likewise, until all are in the full fruition of those equal rights which are the crown of life on earth. Nor can this great triumph be restricted to our Republic. Wherever men are gathered into nations, wherever Civilization extends her beneficent sway, there will it be manifest. Against this lofty truth the assaults of the adversary are no better than the arrows of barbarians vainly shot at the sun. Still it moves, and it will move until all rejoice in its beams. The "all-hail Hereafter," in which the poet pictures personal success, is a feeble expression for that transcendent Future where man shall be conqueror, not only over nations, but over himself, subduing pride of birth, prejudice of class, pretension of Caste.

The assurances of the Future are strengthened, when I look at Government and see how its character con-

stantly improves as it comes within the sphere of knowledge. Men must know before they can act wisely; and this simple rule is applicable alike to individuals and communities. "Go, my son," said the Swedish Chancellor, "and see with what little wisdom the world is governed."[1] Down to his day government was little more than an expedient, a device, a trick, for the aggrandizement of a class, of a few, or, it may be, of one. Calling itself Commonwealth, it was so in name only. There were classes always, and egotism was the prevailing law. Macchiavelli, the much-quoted herald of modern politics, insisted that all governments, whether monarchical or republican, owed their origin or reformation to a single lawgiver, like Lycurgus or Solon.[2] If this was true in his day, it is not in ours. In the presence of an enlightened people, a single lawgiver, or an aristocracy of lawgivers, is impossible, while government becomes the rule of all for the good of all, — not the One Man Power, so constant in history, — not the

[1] "I, fili mi, ut videas quantulâ sapientiâ regatur mundus." — OXENSTIERN, to his son, "as he was departing to assist at the congress of statesmen." (BROUGHAM, *Speech in the House of Lords*, January 18, 1838: Hansard, 3d Ser., Vol. XL. col. 207.) "The congress of statesmen" alluded to was that convened in 1648 for the negotiation of the Treaty of Westphalia, which terminated the Thirty Years' War. — It may be remarked that other authorities represent the occasion of this famous saying to have been a letter from the young envoy to his father, while in attendance at the congress, expressing a sense of need of the most mature wisdom for a mission so important and difficult, — the old Chancellor replying in terms variously cited thus: — "Mi fili, parvo mundus regitur intellectu"; — "Nescis, mi fili, quantillâ prudentiâ homines regantur"; — "An nescis, mi fili, quantillâ prudentiâ regatur orbis?" — See HARTE, *History of Gustavus Adolphus*, (London, 1807,) Vol. II. p. 142; *Biographie Universelle*, (Michaud, Paris, 1822,) art. OXENSTIERNA, Axel; BOITEAU, *Les Reines du Nord*, in *Le Magasin de Librairie*, (Charpentier, Paris, 1858,) Tom. I. p. 436.

[2] Discorsi, Lib. I. capp. 2, 9.

Triumvirate, sometimes occurring, — not an Oligarchy, which is the rule of a few, — not an Aristocracy, which is the rule of a class, — not any combination, howsoever accepted, sanctioning exclusions, — but the whole body of the people, without exclusion of any kind, or, in the great words of Abraham Lincoln at Gettysburg, "government of the people, by the people, and for the people."[1]

Thus far government has been at best an Art, like alchemy or astrology, where ministers exercised a subtle power, or speculators tried imaginative experiments, seeking some philosopher's-stone at the expense of the people. Though in many respects still an Art only, it is fast becoming a Science founded on principles and laws from which there can be no just departure. As a science, it is determined by knowledge, like any other science, aided by that universal handmaid, the philosophy of induction. From a succession of particulars the general rule is deduced; and this is as true of government as of chemistry or astronomy. Nor do I see reason to doubt, that, in the evolution of events, the time is at hand when government will be subordinated to unquestionable truth, making diversity of opinion as impossible in this lofty science as it is now impossible in other sciences already mastered by man. Science accomplishes part only of its beneficent work, when it brings physical nature within its domain. That other nature found in Man must be brought within the same domain. And is it true that man can look into the unfathomable Universe, there to measure suns and stars, that he can penetrate the uncounted ages of the earth's

[1] McPherson's History of the United States during the Great Rebellion, p. 606.

existence, reading everywhere the inscriptions upon its rocks, but that he cannot look into himself, or penetrate his own nature, to measure human capacities and read the inscriptions upon the human soul? I do not believe it. What is already accomplished in such large measure for the world of matter will yet be accomplished for that other world of Humanity; and then it will appear, by a law as precise as any in chemistry or astronomy, that just government stands only on the consent of the governed, that all men must be equal before the law of man as they are equal before the law of God, and that any discrimination founded on the accident of birth is inconsistent with that true science of government which is simply the science of justice on earth.

One of our teachers, who has shed much light on the science of government, — I refer to Professor Lieber, of New York, — shows that the State is what he calls "a *jural* society," precisely as the Church is a religious society, and an insurance company a financial society.[1] The term is felicitous as it is suggestive. Above the State rises the image of Justice, lofty, blindfold, with balance in hand. There it stands in colossal form with constant lesson of Equal Rights for All, while under its inspiration government proceeds according to laws which cannot be disobeyed with impunity, and Providence is behind to sustain the righteous hand. In proportion as men are wise, they recognize these laws and confess the exalted science.

"Know thyself" is the Heaven-descended injunction which ancient piety inscribed in letters of gold in the temple at Delphi.[2] The famous oracle is mute, but the

[1] Manual of Political Ethics, (Boston, 1838,) Part I. p. 171.

[2] Plato, Protagoras, § 82, p. 343. Pliny, Nat. Hist., Lib. VII. cap. 32.

divine injunction survives; nor is it alone. Saint Augustine impresses it in his own eloquent way, when he says, "Men go to admire the heights of mountains, and the great waves of the sea, and the widest flow of rivers, and the compass of the ocean, and the circuits of the stars, *and leave themselves behind.*"[1] Following the early mandate, thus seconded by the most persuasive of the Christian Fathers, man will consider his place in the universe and his relations to his brother man. Looking into his soul, he will there find the great irreversible Law of Right, universal for the nation as for himself, commanding to do unto others as we would have them do unto us; and under the safeguard of this universal law I now place the rights of all mankind. It is little that I can do; but, taking counsel of my desires, I am not without hope of contributing something to that just judgment which shall blast the effrontery of Caste as doubly offensive, not only to the idea of a Republic, but to Human Nature itself.

Already you are prepared to condemn Caste, when you understand its real character. To this end, let me carry you to that ancient India, with its population of more than a hundred and eighty millions, where this artificial discrimination, born of impossible fable, was for ages the dominating institution of society, — being, in fact, what Slavery was in our Rebellion, the corner-stone of the whole structure.

The Portuguese were the first of European nations to form establishments in India, and therefore through

[1] "Eunt homines admirari alta montium, et ingentes fluctus maris, et latissimos lapsus fluminum, et Oceani ambitum, et gyros siderum, et relinquunt seipsos." — *Confessiones*, Edit. Benedict., Lib. X. Cap. VIII. 15.

them was the civilized world first acquainted with its peculiar institutions. But I know no monument of their presence there, and no contribution from them to our knowledge of the country, so enduring as the word Caste, or, in the Portuguese language, *Casta*, by which they designated those rigid orders or ranks into which the people of India were divided. The term originally applied by them has been adopted in the other languages of Europe, where it signifies primarily the orders or ranks of India, but by natural extension any separate and fixed order of society. In the latter sense Caste is now constantly employed. The word is too modern, however, for our classical English literature, or for that most authentic record of our language, the Dictionary of Dr. Johnson, when it first saw the light in 1755.

Though the word was unknown in earlier times, the hereditary discrimination it describes entered into the political system of modern Europe, where people were distributed into classes, and the son succeeded to the condition of his father, whether of privilege or disability, — the son of a noble being a noble with great privileges, the son of a mechanic being a mechanic with great disabilities. And this inherited condition was applicable even to the special labor of the father; nor was there any business beyond its tyrannical control. According to Macaulay, "the tinkers formed an hereditary caste."[1] The father of John Bunyan was a tinker, and the son inherited the position. The French Revolution did much to shake this irrational system; yet in many parts of Europe, down to this day, the son emancipates himself with difficulty from the class in which he is

[1] Essays, *John Bunyan*, (New York, 1862,) Vol. VI. p. 132.

born. But just in proportion to the triumph of Equality does Caste disappear.

This institution is essentially barbarous, and therefore appears in barbarous ages, or in countries not yet relieved from the early incubus. It flourished side by side with the sculptured bulls and cuneïform characters of Assyria, side by side with the pyramids and hieroglyphics of Egypt. It showed itself under the ambitious sway of Persia, and even in the much-praised Cecropian era of Attica. In all these countries Caste was organized, differing somewhat in divisions, but hereditary in character. And the same phenomenon arrested the attention of the conquering Spaniards in Peru. The system had two distinct elements: first, separation, with rank and privilege, or their opposite, with degradation and disability; secondly, descent from father to son, so that it was perpetual separation from generation to generation.[1]

In Hindostan, this dreadful system, which, under the name of Order, is the organization of disorder, has prolonged itself to our day, so as to be a living admonition to mankind. That we may shun the evil it entails, in whatever shape, I now endeavor to expose its true character.

The regular castes of India are four in number, called in Sanscrit *varnas*, or *colors*, although it does not appear that by nature they were of different colors. Their origin will be found in the sacred law-book of the Hindoos, the "Ordinances of Menu," where it is recorded that the Creator caused the Brahmin, the Cshatriya, the

[1] Encyclopædia Britannica, (8th edit.,) Vol. VI. pp. 314-16, art. CASTE, and the authorities there cited.

Vaisya, and the Sudra, so named from *Scripture, Protection, Wealth,* and *Labor,* to proceed from his mouth, his arm, his thigh, and his foot, appointing separate duties for each class. To the Brahmin, proceeding from the mouth, was allotted the duty of reading the Veda and of teaching it; to the Cshatriya, proceeding from the arm, the duty of soldier; to the Vaisya, proceeding from the thigh, the duty of cultivating the land and keeping herds of cattle; and to the Sudra, proceeding from the foot, was appointed the chief duty of serving the other classes without depreciating their worth. Such was the original assignment of parts; but, under the operation of natural laws, those already elevated increased their importance, while those already degraded sank lower. Ascent from an inferior class was absolutely impossible: as well might a vegetable become a man. The distinction was perpetuated by the injunction that each should marry only in his own class, with sanguinary penalties upon any attempted amalgamation.

The Brahmin was child of rank and privilege; the Sudra, child of degradation and disability. Omitting the two intermediate classes, soldiers and husbandmen, look for one moment at the two extremes, as described by the sacred volume.

The Brahmin is constantly hailed as first-born, and, by right, chief of the whole creation. This eminence is declared in various terms. Thus it is said, "When a Brahmin springs to light, he is born above the world"; and then again, "Whatever exists in the universe is all in effect the wealth of the Brahmin." As he engrosses the favor of the Deity, so is he entitled to the veneration of mortals; and thus, "whether learned or

ignorant, he is a powerful divinity, even as fire is a powerful divinity, whether consecrated or common." Immunities of all kinds cluster about him. Not for the most insufferable crime can he be touched in person or property; nor can he be called to pay taxes, while all other classes must bestow their wealth upon him. Such is the Brahmin, with these privileges crystallized in his blood from generation to generation.

On the other hand is the Sudra, who is the contrast in all particulars. As much as the Brahmin is object of constant veneration, so is the Sudra object of constant contempt. As one is exalted above Humanity, so is the other degraded below it. The life of the Sudra is servile, but according to the sacred volume he was created by the Self-Existent especially to serve the Brahmin. Everywhere his degradation is manifest. He holds no property which a Brahmin may not seize. The crime he commits is visited with the most condign punishment, beyond that allotted to other classes subject to punishment. The least disrespect to a Brahmin is terribly avenged. For presuming to sit on a Brahmin's carpet, the penalty is branding and banishment, or maiming; for contumelious words to a Brahmin, it is an iron style ten fingers long thrust red-hot into the mouth; and for offering instruction to a Brahmin, it is nothing less than hot oil poured into mouth and ears. Such is the Sudra; and this fearful degradation, with all its disabilities, is crystallized in his blood from generation to generation.

Below these is another more degraded even than the Sudra, being the outcast, with no place in either of the four regular castes, and known commonly as the Pariah. Here is another term imported into familiar usage to

signify generally those on whom society has set its ban. No person of the regular castes holds communication with the Pariah. His presence is contaminating. Milk, and even water, is defiled by his passing shadow, and cannot be used until purified. The Brahmin sometimes puts him to death at sight. In well-known language of our country, once applied to another people, he has no rights which a Brahmin is bound to respect.[1]

Such a system, so shocking to the natural sense, has been denounced by all who have considered it, whether on the spot or at a distance, — unless I except the excellent historian Robertson, who seems to find apologies for it, as men among us find apologies for the caste which sends its lengthening shadow across our Republic. I might take your time until late in the evening unfolding its obvious evil, as exposed by those who have witnessed its operation. This testimony is collected in a work entitled "Caste opposed to Christianity," by Rev. Joseph Roberts, and published in London in 1847. I give brief specimens only. A Hindoo converted to Christianity exposes its demoralizing influence, when he says, "Caste is the stronghold of pride, which makes a man think of himself more highly than he ought to think"; and so also another converted Hindoo, when he says, "Caste makes a man think that he is holier than another, and that he has some inherent virtue which another has not"; and still another converted Hindoo, when he says, "Caste is part and parcel of idolatry and all heathen abomination." But no testi-

[1] Institutes of Hindoo Law, or the Ordinances of Menu, translated by Sir William Jones: Works, (London, 1807,) Vols. VII., VIII. Mill, British India, Book II. ch. 2; also, Art. CASTE, Encyclopædia Britannica, (8th edit.,) Vol. VI. Robertson, Ancient India, Note LVIII. [Appendix, Note I.]. Dubois, People of India, Part III. ch. 6.

mony surpasses that of the eminent Reginald Heber, the Bishop of Calcutta, when he declares that it is "a system which tends, more than anything else the Devil has yet invented, to destroy the feelings of general benevolence, and to make nine tenths of mankind the hopeless slaves of the remainder."[1] Under these protests, and the growing influence of Christianity, the system is so far mitigated, that, according to an able writer whose soul is enlisted against it, "the distinctions are felt on certain limited occasions only."[2] These are the words of James Mill, interesting always as the author of the best work on India, and the father of John Stuart Mill. It is now admitted, that, under constraint of necessity, the member of a superior caste may descend to the pursuits of an inferior caste. The lofty Brahmin engages in traffic, yet he cannot touch "leather"; for contact with this article of commerce is polluting. But I am obliged to add that no modification leaving "distinctions" transmissible with the blood can be adequate. So long as these continue, the natural harmonies of society are disturbed and man is degraded. The system in its mildest form can have nothing but evil; for it is a constant violation of primal truth, and a constant obstruction to that progress which is the appointed destiny of man.

Change now the scene, — from ancient India, and the shadow of unknown centuries, to our Republic, born of yesterday. How unlike in venerable antiquity! How

[1] Narrative of a Journey through the Upper Provinces of India, etc., (London, 1829,) Vol. III. p. 355.

[2] Mill, Art. CASTE, Encyclopædia Britannica, (8th edit.,) Vol. VI. p. 319.

like in the pretension of Caste! Here the caste claiming hereditary rank and privilege is white, the caste doomed to hereditary degradation and disability is black or yellow; and it is gravely asserted that this difference of color marks difference of race, which in itself justifies the discrimination. To save this enormity of claim from indignant reprobation, it is insisted that the varieties of men do not proceed from a common stock, — that they are different in origin, — that this difference is perpetuated in their respective capacities; and the apology concludes with the practical assumption, that the white man is a superior caste not unlike the Brahmin, while the black man is an inferior caste not unlike the Sudra, sometimes even the Pariah; nor is the yellow man exempted from this same insulting proscription. When I consider how for a long time the African was shut out from testifying in court, even when seeking redress for the grossest outrage, and how at this time in some places the Chinese is also shut out from testifying in court, each seems to have been little better than the Pariah. In stating this assumption of superiority, which I do not exaggerate, I open a question of surpassing interest, whether in science, government, or religion.

Here I must not forget that some, who admit the common origin of all men, insist that the African is descended from Ham, son of Noah, through Canaan, cursed by Noah to be servant of his brethren, and that therefore he may be degraded even to slavery. But this apology is not original with us. Nobles in Poland seized upon it to justify their lordly pretensions, calling their serfs, though white, descendants of Ham.[1] But

[1] Gurowski, Slavery in History, (New York, 1860,) p. 237.

whether employed by Pole or American, it is worthy only of derision. I do not know that this apology is invoked for maltreating the Chinese, although he is descended from Ham as much as the Pole.

Two passages of Scripture, one in the Old Testament and the other in the New, both governing this question, attest the Unity of the Human Family. The first is in that sublime chapter of Genesis, where, amidst the wonders of Creation, it is said: "So God created man in His own image; in the image of God created He him; male and female created He them. And God blessed them; and God said unto them, Be fruitful and multiply, and replenish the earth, and subdue it."[1] The other passage is from that great sermon of Saint Paul, when, standing in the midst of Mars Hill, he proclaimed to the men of Athens, and through them to all mankind, that God "hath made of *one blood* all nations of men for to dwell on all the face of the earth."[2] If, as is sometimes argued, there be ambiguity in the account of the Creation, or if in any way its authority has been impaired by scientific criticism, there is nothing of the kind to detract from the sermon of Saint Paul, which must continue forevermore venerable and beautiful.

Appealing from these texts, the apologists hurry to Science; and there I follow. But I must compress into paragraphs what might fill volumes.

Ethnology, to which we repair, is a science of recent origin, exhibiting the different races or varieties of Man in their relations with each other, as that other science, Anthropology, exhibits Man in his relation to the ani-

[1] Genesis, i. 27-28. [2] Acts, xvii. 26.

mal world. Nature and History are our authorities, but all science and all knowledge are tributary. Perhaps no other theme is grander; for it is the very beginning of human history, in which all nations and men have a common interest. Its vastness is increased, when we consider that it embraces properly not only the origin, distribution, and capacity of Man, but his destiny on earth, — stretching into the infinite past, stretching also into the infinite future, and thus spanning Humanity.

The subject is entirely modern. Hippocrates, one of our ancient masters, has left a treatise on "Air, Water, and Place," where climatic influences are recognized; but nobody in Antiquity studied the varieties of our race, or regarded its origin except mythically. The discovery of America, and the later circumnavigation of the globe, followed by the development of the sciences generally, prepared the way for this new science.

It is obvious to the most superficial observer that there are divisions or varieties in the Human Family, commonly called Races; but the most careful explorations of Science leave the number uncertain. These differences are in Color and in Skull, — also in Language. Of these the most obvious is Color; but here, again, the varieties multiply in proportion as we consider transitional or intermediate hues. Two great teachers in the last century — Linnæus, of whom it was said, "God created, Linnæus classified," *Deus creavit, Linnæus disposuit*,[1] and Kant, a sincere and pen-

[1] Legend on the coat-of-arms beneath the portrait in Stoever's Life of Linnæus, (London, 1794,) — said to have originated with an eminent scientific friend of the great naturalist. — *Preface*, pp. xi - xii.

etrating seeker of truth — were content with four, — white, copper, tawny or olive, and black, — corresponding geographically to European, American, Asiatic, and African. Buffon, in his eloquent portraiture, recognizes five, with geographical designations. He was followed by Blumenbach, who also recognizes five, with the names which have become so famous since, — Caucasian, Mongolian, Ethiopian, American, and Malay. Here first appears the popular, but deceptive term, Caucasian; for nobody supposes now that the white cradle was on Caucasus, which is best known to English-speaking people by the verse of Shakespeare, making it anything but Eden, —

> "Oh, who can hold a fire in his hand
> By thinking on the frosty Caucasus?" [1]

Blumenbach was an able and honest inquirer; and if his nomenclature is defective, it is only another illustration of the adage, that nothing is at the same time invented and perfected.

If I mention other attempts, it is only to show how Science hesitates before this great problem. Cuvier reduces the Family to three, with branches or subdivisions, and lends his great authority to the term Caucasian, which he adopts from Blumenbach. Lesson began with three, according to color, — white, yellow, and black; but afterwards recognized six, — white, bistre, orange, yellow, red, black, — represented respectively by European, Hindoo, Malay, Mongolian, American, and Negro, African and Asiatic. Desmoulins makes eleven. Bory de Saint-Vincent adds to Desmoulins. Broc adds to Saint-Vincent. The London "Ethnological Journal" makes no less than sixty-three, of which

[1] Richard the Second, Act I. Scene 3.

twenty-eight varieties are intellectual and thirty-five physical; and we are told[1] that thirty varieties of Caucasian alone are recognized on the monuments of ancient Egypt, as they appear in the magnificent works of Rosellini and Lepsius. Our own countryman, Pickering, — whose experience was gained on the Exploring Expedition of Captain Wilkes, — in his work on "The Races of Man and their Geographical Distribution," enumerates eleven varieties of Man, divided into four groups, according to color, — white, brown, blackish-brown, and black. In his opinion, "there is no middle ground between the admission of eleven distinct species in the Human Family and the reduction to one."[2]

The Dutch anatomist, Camper, distinguishes the Human Family by the facial angle, ranging from eighty degrees, in the European, down to seventy degrees, in the Negro.[3] This attempt was continued by Virey, who divides Man into two species: the first with a facial angle of 85° to 90°, including Caucasian, Mongolian, and copper-colored American; and the second with a facial angle of 75° to 82°, including dark-brown Malay, blackish Hottentot and Papuan, and the Negro. Prichard, whose voluminous works constitute an ethnological mine, finds, chiefly from the skull, seven varieties, which he calls (1.) Iranian, from Iran, the primeval seat in Persia of the Aryan race, embracing the Caucasian of Blumenbach with some Asiatic and African nations; (2.) Turanian or Mongolian; (3.) American, including

[1] Nott and Gliddon, Types of Mankind, p. 169.

[2] The Races of Man, p. 306.

[3] Dissertation sur les Variétés Naturelles qui caractérisent la Physionomie des Hommes, tr. Jansen, (Paris, 1792,) Ch. III.

Esquimaux; (4.) Hottentot and Bushman; (5.) Negro; (6.) Papuan, or woolly-haired Polynesian; (7.) Australian. The same industrious observer finds three principal varieties in the conformation of the head, corresponding respectively to Savage, Nomadic, and Civilized Man. In the savage African and Australian the jaw is prolonged forward, constituting what he calls, by an expressive term, *prognathous*. In the nomadic Mongolian the skull is pyramidal and the face broad. In Civilized Man the skull is oval or elliptical. But the naturalist records that there are forms of transition, as nations approach to civilization or relapse into barbarism.

Thus does the Human Skull refuse any definitive answer. There are varieties of skull, as of color; but the question remains, to what extent they attest original diversity. Equally vain is the attempt to obtain a guide in the form of the human pelvis. But every such attempt and its failure have their lesson.

There remains one other criterion: I mean Language. And here the testimony is such as to disturb all divisions founded on Color or Skull; for it is ascertained that people differing in these respects speak languages having a common origin. The ancient Sanscrit, sometimes called the most elaborate of human dialects, has yielded its secret to philological research, and now stands forth the mother tongue of the European nations. It is difficult to measure the importance of this revelation; for, while not decisive on the main question, it increases our difficulty in accepting any postulate of original diversity.[1]

[1] For a notice of the principal writers and theories on the subject of Races, including those mentioned in the text, see the article on ETHNOLOGY, by Dr. Kneeland, in the "New American Cyclopædia," (1st. edit.,) Vol. VII. pp. 306–11.

And now the question arises, How are these varieties to be regarded in the light of science? Are they aboriginal and from the beginning, — or are they superinduced by secondary causes, of which the record is lost in the extended night preceding our historic day? Here the authorities are divided. On the one side, we are reminded that within the period of recognized chronology no perceptible change has occurred in any of these varieties, — that on the earliest monuments of Egypt the African is pictured precisely as we see him now, even to that servitude from which among us he is happily released, — and it is insisted that no known influences of climate or place are sufficient to explain such transformations from an aboriginal type, while plural types are in conformity with the analogies of the animal and vegetable world. On the other side, we are reminded, that, whatever may be the difficulties from supposing a common centre of Creation, there are greater still in supposing plural centres, — that it is easier to understand one creation than many,[1] — that geographical science makes us acquainted with intermediate gradations of color and conformation in which the great contrasts disappear, — that, even within the last half-century and in Europe, people have tended to lose their national physiognomy and run into a common type, thus attesting subjection to transforming influences, — that, after accepting the races already described, there are other varieties, national, family, and individual, not less difficult of explanation, — and it is insisted, that, whatever these varieties, be they few or many, there is among them all *an overruling Unity*, by which

[1] In reference to the theory of many Homers instead of one, the German Voss used to say, "It would be a greater miracle, had there been many Homers, than it is that there was one."

they are constituted one and the same cosmopolitan species, endowed with speech, reason, conscience, and the hope of immortality, knitting all together in a common Humanity, and, amidst all seeming differences, making all as near to each other as they are far apart from every other created thing, while to every one is given that great first instrument of civilization, the human hand, by which the earth is tilled, cities built, history written, and the stars measured; — and this unquestionable Unity is pronounced all-sufficient evidence of a common origin.

In considering this great question, do all inquirers sufficiently recognize the element of Time? Obviously the sphere of operation is enlarged in proportion to the time employed. Everything is possible with time. Confining ourselves to recognized chronology, existing varieties cannot be reconciled with that unity found in a common origin. What are the six thousand years of Hebrew time, what are the twenty-two thousand years of human annals sanctioned by the learning and piety of Bunsen,[1] for the consummation of these transformations? And this longest period, how brief for the completion of those two marvellous languages, Sanscrit and Greek, which at the earliest dawn of authentic history were already so perfect! Considering the infinitudes of astronomy, and those other infinitudes of geology, it is not unreasonable to claim an antiquity for Primeval Man compared with which all the years of authentic history are a span. With such incalculable opportunity, amidst unknown changes of Nature where heat and cold strove for mastery, no transformation consistent with the preservation of the characteristic species

[1] Egypt's Place in Universal History, (London, 1860,) Vol. IV. p. 480.

was impossible. Egypt is not alone in its Sphinx, perplexing mortals with perpetual enigma. Science is our Sphinx, and its enigma is Man and his varieties on earth: to which I answer, "Time."

Nor is it unreasonable to suppose that at the Creation conditions were stamped upon man, making transformations natural. Because unnatural according to observation during the brief period of historic time, it does not follow that they are not strictly according to law. The famous Calculating Engine of Charles Babbage, the distinguished mathematician, as described in his remarkable "Bridgewater Treatise," where Science vindicates anew the ways of Providence to man, supplies an illustration which is not without instruction. This machine, with a power almost miraculous, was so adjusted as to produce a series of natural numbers in regular order from unity to a number expressed by one hundred millions and one, — 100,000,001, — when another series was commenced, regulated by a different law, which continued until at a certain number the series was again changed; and all these changes in the immense progression proceeded from a propulsion at the beginning.[1] Any simple observer, finding that the series stretched onwards through successive millions, would have no hesitation in concluding from the vast induction that it must proceed always according to the same law; and yet it was not so. But the Calculating Engine is only a contrivance of human skill. And cannot the Creator do as much? That is a very inadequate conception of the Almighty Power creating the universe and placing man in it, which supposes, according to the language of Sir John Herschel, the emi-

[1] Ninth Bridgewater Treatise, (London, 1838,) pp. 34, seqq.

nent astronomer, that "His combinations are exhausted upon any one of the theatres of their former exercise."[1] Thus far we know not the law of the series which governed Primeval Man. Who can say that after lapse of time changes did not occur, always in obedience to conditions stamped upon him at the Creation?

A simpler illustration carries us to the same result. A cog-wheel, so common in machinery, operates ordinarily by the cogs on its rim; but the wheel may be so constructed, that, after a certain series of rotations, another set of cogs is presented, inducing a different motion. All can see how, in conformity with preëxisting law, a change may occur in the operations of the machine. But it was not less easy for the Creator to fix His law at the beginning, according to which the evolutions of this world proceed. And thus are we brought back to the conclusion, so often announced, that unity of origin must not be set aside simply because existing varieties of Man cannot be sufficiently explained by known laws, operating during that brief period which we call History.

In considering this great question, there are authorities which cannot be disregarded. Count them or weigh them, it is the same. I adduce a few only, beginning with Latham, the ethnologist, who insists, —

"(1.) That, as a matter of fact, the languages of the earth's surface are referable to one common origin; (2.) that, as a matter of logic, this common origin of language is *primâ facie* evidence of a common origin for those who speak it."[2]

[1] Letter to Mr. Lyell, February 20, 1836: Ninth Bridgewater Treatise, Appendix, Note I, p. 226.

[2] Encyclopædia Britannica, (8th edit.,) Vol. IX. p. 354, — art. ETHNOLOGY.

The great French geographer and circumnavigator, Dumont d'Urville, testifies thus:—

"I see on the whole surface of the globe only three types or divisions of mankind which seem to me to merit the title of distinct races: the white, more or less colored with red; the yellow, inclining to different tints of copper or bronze; and the black. — I share in the opinion which refers these three races to one and the same primitive stock, and which places their common cradle on the central plateau of Asia."[1]

Buffon, the brilliant naturalist, whose work is one of the French classics, thus records his judgment:—

"All concurs to prove that the human race is not composed of species essentially different among themselves, — that, on the contrary, there was originally but a single species of men, who, in multiplying and spreading over all the surface of the globe, have undergone different changes through the influence of climate, difference of food, difference in the manner of living, epidemic maladies, and the infinitely varied intermixture of individuals more or less alike."[2]

Another authority, avoiding the question of origin, has given a summary full of instruction and beauty. I refer to Alexander von Humboldt, the life-long companion of every science, to whom all science was revealed, — who studied Man in both hemispheres, and ever afterwards, throughout his long and glorious career, continued the pursuit. Adopting the words of the great German anatomist, Johannes Müller, that "the different races of mankind are forms of one sole species, by the union of two individuals of which descendants

[1] Voyage de l'Astrolabe, Tom. II. pp. 627, 628.
[2] Histoire Naturelle, (2me édit.,) Tom. III. pp. 529 - 30.

are propagated,"[1] and criticizing the popular classifications of Blumenbach and Prichard as wanting "typical sharpness" or "well-established principle," the author of "Cosmos" insists that "the distribution of mankind is only a distribution into *varieties*, which are commonly designated by the somewhat indefinite term *races*," and then announces the grand conclusion: —

"Whilst we maintain the unity of the human species, we at the same time repel the depressing assumption of superior and inferior races of men. There are nations more susceptible of cultivation, more highly civilized, more ennobled by mental cultivation, than others, *but none in themselves nobler than others.*"[2]

Such is the testimony of Science by one of its greatest masters. Rarely have better words been uttered. Nor should it be said longer that Science is silent. Humboldt has spoken. And what he said is much in little, — most simple, but most comprehensive; for, while asserting the Unity of the Human Family, he repels that disheartening pretension of Caste which I insist shall find no place in our political system. Through him Science is enlisted for the Equal Rights of All.

Whatever the judgment on the unity of origin, where, from the nature of the case, there can be no final human testimony, it is a source of infinite consolation that we can anchor to that other unity found in a common organization, a common nature, and a common destiny, being at once physical, moral, and prophetic. This is the true Unity of the Human Family. In all essentials

[1] Handbuch der Physiologie des Menschen, (Coblenz, 1840,) Band II. s. 773.

[2] Cosmos, tr. Otté, (London, 1848,) pp. 364-8.

constituting Humanity, in all that makes Man, all varieties of the human species are one and the same. There is no real difference between them. The variance, whether of complexion, configuration, or language, is external and superficial only, like the dress we wear. Here all knowledge and every science concur. Anatomy, physiology, psychology, history, the equal promises to all men, testify. Look at Man on the dissecting table, and he is always the same, no matter in what color he is clad, — same limbs, same bones, same proportions, same structure, same upright stature. Look at Man in the world, and you will find him in nature always the same, — modified only by the civilization about him. There is no human being, black or yellow, who may not apply to himself the language of Shakespeare's Jew: —

"Hath not a Jew eyes? Hath not a Jew hands, organs, dimensions, senses, affections, passions? — fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer as a Christian is? If you prick us, do we not bleed? If you tickle us, do we not laugh? If you poison us, do we not die?"[1]

Look at Man in his destiny here or hereafter, so far as it can be penetrated by mortal vision, and who will venture to claim for any variety or class exclusive prerogatives on earth or in heaven? Where is this preposterous pretender? God has given to all the same longevity, marking a common mortality, — the same cosmopolitan character, marking citizenship everywhere, — and the same capacity for improvement, marking

[1] Merchant of Venice, Act III. Scene 1.

that tendency sometimes called the perfectibility of the race; and He has given to all alike the same promise of immortal life. By these tokens is Man known everywhere to be Man, and by these tokens is he everywhere entitled to the Rights of Man.

There is a lesson in the Dog, — is there not? Who does not admire that fidelity which makes this animal ally and friend of man, following him over the whole earth, in every climate, under all influences of sky, cosmopolitan as himself, in prosperity and adversity always true, — and then, by beautiful fable, transported to another world, where the association of life is prolonged to man, while "his faithful dog shall bear him company"?[1] The dog of Ulysses dying for joy at his master's return, when all Ithaca had forgotten the long-absent lord, is not the only instance. But who has heard that this wonderful instinct makes any discrimination of manhood? It is to Man that the dog is faithful; nor does it matter of what condition, whether the child of wealth or the rough shepherd tending his flocks; nor does it matter of what complexion, whether Caucasian white, or Ethiopian black, or Mongolian yellow. It is enough that the master is Man; and thus, even through the instincts of a brute, does Nature testify to that Unity of the Human Family by virtue of which all are alike in rights.

Experts in Ethnology are earnest to recognize this other Unity on which I now insist. Our own Agassiz, who is the most illustrious of the masters not accepting the unity of origin, is careful to add, "that the moral

[1] Pope, Essay on Man, Ep. I. 112.

question of Brotherhood among men" is not affected by this dissent; and he announces "that Unity is not only compatible with diversity of origin, but that it is the universal law of Nature."[1] This other Unity found an eloquent representative in William von Humboldt, not less eminent as philologist than his brother as naturalist, who proclaims our Common Humanity to be the dominant idea of history, more and more extending its empire, "striving to remove the barriers which prejudice and limited views of every kind have erected amongst men, and to treat all mankind, without reference to religion, nation, or color, as one Fraternity, one great community"; and he concludes by announcing "the recognition of the bond of Humanity" as "one of the noblest leading principles in the history of mankind."[2] And these grand words are adopted by Alexander von Humboldt,[3] so that the philologist and the naturalist unite in this cause. Thus in every direction do we find new testimony against the pretension of Caste.

We are told that "a little learning is a dangerous thing." If this be ever true, it cannot be better illustrated than by that sciolism which from the varieties of the human species would overthrow that sublime Unity which is the first law of Creation. As well overthrow Creation itself. There is no great intelligence which does not witness to this law. Bacon, Newton, Leibnitz, Descartes all testify. Laplace, from the heights of his knowledge, teaches that the curve described by a simple

[1] Natural Provinces of the Animal World, and their Relation to the Different Types of Man: prefixed to Nott and Gliddon's "Types of Mankind," p. lxxv.

[2] Ueber die Kawi-Sprache auf der Insel Java, (Berlin, 1839,) Band III. s. 426.

[3] Cosmos, tr. Otté, Vol. I. pp. 368, 369.

particle of air or vapor is regulated by a law as certain as the orbits of the planets; and is not Man the equal subject of certain law? God rejoices in Unity. It is with Him a universal law, applicable to all above and below, from the sun in the heavens to the soul of man. Not one law for one group of stars, and one law for one group of men, — but one law for all stars, and one law for all men. The saying of Plato, that "God geometrizes,"[1] is only another expression for the certainty and universality of this law. Aristotle follows Plato, when, borrowing an illustration from the well-known requirements of the Greek drama, he announces, that "in Nature nothing is unconnected or out of place, as in a bad tragedy."[2] But Caste is unconnected and out of place. It is a perpetual discord, a prolonged jar, — contrary to the first principle of the Universe.

Only when we consider the universality of the Moral Law can we fully appreciate the grandeur of this Unity. The great philosopher of Germany, Kant, declared that there were two things filling him always with admiration, — the starry heavens above, and the moral law within.[3] Well might the two be joined together; for in that moral law, with a home in every bosom, is a vastness and beauty commensurate with the Universe. Every human being carries a universe in himself; but here, as in that other universe, is the same prevailing law of Unity, in harmony with which the starry heavens move in their spheres and men are constrained to

[1] Plutarch, Symposiaca, Lib. VIII. Quæst. 2: Moralia, ed. Wyttenbach, Tom. III. p. 961.

[2] Metaphysica, Lib. XIII. cap. 3, § 9: Opera, ed. Bekker, (Oxonii, 1837,) Tom. VIII. p. 277.

[3] Kritik der praktischen Vernunft, 2 Theil, Beschluss: Sämmtliche Werke, herausg. von Hartenstein, (Leipzig, 1867,) Band V. s. 167.

the duties of life. The stars must obey; so must men. This obedience brings the whole Human Family into harmony with each other, and also with the Creator. And here, again, we behold the grandeur of the system, while new harmonies unfold. Religion takes up the lesson, and the daily prayer, "Our Father who art in Heaven," is the daily witness to the Brotherhood of Man. God is Universal Father; then are we all brothers. If not all children of Adam, we are all children of God, — if not all from the same father on earth, we are all from the same Father in Heaven; and this affecting relationship, which knows no distinction of race or color, is more vital and ennobling than any monopoly. Here, once more, is that universal law which forbids Caste, speaking not only with the voice of Science, but of Religion also, — praying, pleading, protesting, in the name of a Common Father, against such wrong and insult to our brother man. In beautiful harmony are those words of promise, "I will make a *man* more precious than fine gold, even a man than the golden wedge of Ophir."[1] Against this lofty recognition of a common humanity, how mean the pretension of Caste!

Assuming this common humanity, it is difficult to see how reason can resist the conclusion, that in the lapse of time there must be a common, universal civilization, which every nation and every people will share. None too low, none too inaccessible for its kindred embrace. Amidst the differences which now exist, and in the contemplation of nations and peoples infinitely various in condition, with the barbarian still claiming an extensive empire, with the savage still claiming a whole continent

[1] Isaiah, xiii. 12.

and islands of the sea, I cannot doubt the certain triumph of this great law. Believing in God, I believe also in Man, through whose God-given energies all this will be accomplished. Was he not told at the beginning, with the blessing of God upon him, "*Be fruitful, and multiply, and replenish the earth, and subdue it*"? All of which I am sure will be done. Why this common humanity, why this common brotherhood, if the inheritance is for Brahmins only? Why the injunction to multiply and subdue the earth, if there are to be Sudras and Pariahs always? Why this sublime law of Unity, holding the universe in its grasp, if Man alone is left beyond its reach?

I have already founded the Unity of the Human Family partly on the common destiny, and I now insist that this common destiny is attested by the unquestionable Unity of the Human Family. They are parts of one system, complements of each other. Why this unity, if there be no common destiny? How this common destiny, if there be no unity? Assuming the unity, then is the common destiny a necessary consequence, under the law appointed for man.

The skeptic is disturbed, because thus far in our brief chronology this common civilization has not been developed; but to my mind it is plain that much has been done, making the rest certain, through the same incessant influences, under the great law of Human Progress.

That European civilization which has already pushed its conquests in every quarter of the globe is a lesson to mankind. Beginning with small communities, it has proceeded stage by stage, extending to larger, until it embraced nations and distant places, — and now stamps

itself ineffaceably upon increasing multitudes, making them, under God, pioneers in the grand march of Humanity.

Europe had her dark ages when there was a night with "darkness visible," and there was an earlier period in the history of each nation when Man was not less savage than now in the very heart of Africa; but the European has emerged, and at last stands in a world of light. Take any of the nations whose development belongs to modern times, and the original degradation can be exhibited in authentic colors. There is England, whose present civilization is in many respects so finished; but when the conquering Cæsar, only fifty-five years before the birth of Christ, landed on this unknown island, her people were painted savages, with a cruel religion, and a conjugal system which was an incestuous concubinage.[1] His authentic report places this condition beyond question; and thus knowing her original degradation and her present transformation after eighteen centuries, we have the terms for a question in the Rule of Three. Given original degradation and present transformation of England, how long will it take for the degradation of other lands to experience a similar transformation? Add also present agencies of civilization, to which England was for centuries a stranger.

This instance is so important as to justify details. When Britain was first revealed to the commercial enterprise of Tyre, her people, according to Macaulay, "were little superior to the natives of the Sandwich Isl-

[1] Cæsar, De Bello Gallico, Lib. V. cap. 14; VI. 13, 16. Prichard, Physical History of Mankind, (London, 1841,) Vol. III. pp. 179, 187.

ands."[1] The historian must mean, when those islands were first discovered by Captain Cook. Prichard, our best authority, supposes them "nearly on a level with the New-Zealanders or Tahitians of the present day, or perhaps not very superior to the Australians,"[2] which is very low indeed. There was but little change, if any, when they became known to the Romans. They are pictured as large and tall, excelling the Gauls in stature, but less robust, and, according to the geographer Strabo, with crooked legs and unshapely figures.[3] Northward were the Caledonians, — also Britons, — tattooing their bodies, dwelling in tents, savage in manners, and with a moral degradation kindred to that of the Southern Britons.[4] Across the Channel were the Irish, whose reported condition was even more terrible.[5] According to Cæsar, most in the interior of Britain never sowed corn, but lived on milk and flesh, and were clad in skins; but he notes that all colored their bodies with a cerulean dye, "making them more horrid to the sight in battle"; and he then relates, that societies of ten or twelve, brothers and brothers, parents and children, had wives in common.[6] Their religious observances were such as became this savage life. Here was the sanctuary of the Druids, whose absolute and peculiar power was sustained by inhuman rites. On rude, but terrible altars, in the gloom of the forest, hu-

[1] History of England, (London, 1849,) Vol. I. p. 4.

[2] Physical History of Mankind, Vol. III. p. 182.

[3] Geographica, Lib. IV. cap. 5, § 2, p. 200. Prichard, Physical History of Mankind, Vol. III. pp. 196-7.

[4] Herodian, Hist., Lib. III. cap. 14, § 13. Dion Cassius, Hist. Rom., Lib. LXXVI. cap. 12. Prichard, Vol. III. pp. 155-6.

[5] For details, see Prichard, Vol. III. pp. 137-8, and the authorities there cited.

[6] De Bello Gallico, Lib. V. cap. 14.

man victims were sacrificed, — while from the blood, as it coursed under the knife of the priest, there was a divination of future events.[1] There was no industry, and no production, except slaves too illiterate for the Roman market. Imagination pictured strange things. One province was reported where "the ground was covered with serpents, and the air was such that no man could inhale it and live."[2] In the polite circles of the Empire the whole region excited a fearful horror, which has been aptly likened to that of the early Ionians for "the Straits of Scylla and the city of the Læstrygonian cannibals."[3] The historian records with a sigh, that "no magnificent remains of Latian porches and aqueducts are to be found" here, — that "no writer of British birth is reckoned among the masters of Latian poetry and eloquence."[4]

And this was England at the beginning. Long afterwards, when centuries had intervened, the savage was improved into the barbarian. But from one authentic instance learn the rest. The trade in slaves was active, and English peddlers bought up children throughout the country, while the people, greedy of the price, sold their own relations, sometimes their own offspring.[5] In similar barbarism, all Jews and their gains were the absolute property of the king; and this law, beginning with Edward the Confessor, was enforced under successive monarchs, one of them making a mortgage of all Jews

[1] Diodorus Siculus, Biblioth. Histor., Lib. V. cap. 31, p. 213. Encyclopædia Britannica, (8th edit.,) Vol. V. p. 375, art. BRITAIN.

[2] Procopius, De Bello Gothico, Lib. IV. cap. 20, p. 623, D. Macaulay, History of England, Vol. I. p. 5.

[3] Macaulay, Ibid.

[4] Ibid., p. 4.

[5] Henry, History of Great Britain, (London, 1805,) Vol. IV. pp. 237, 239.

to his brother as security for a debt.[1] Nothing worse is now said of Africa.

Progress was slow. When in 1435 the Italian Æneas Sylvius, afterwards Pope Pius the Second, visited this island, it was to his eyes most forlorn. Houses in cities were in large part built without lime. Cottages had no other door than a bull-hide. Food was coarse, — sometimes, in place of bread, the bark of trees; and white bread was such a rarity among the people as to be a curiosity.[2] When afterwards, under Henry the Eighth, civilization had begun, the condition of the people was deplorable. There was no such thing among them as comfort, while plague and sweating-sickness prevailed. The learned and ingenious Erasmus, who was an honored guest in England at this time, refers much to the filthiness of the houses. The floors he describes as commonly of clay strewn with rushes, in the renewal of which those at the bottom sometimes remained undisturbed for twenty years, retaining filth unmentionable, — "*sputa, vomitus, mictum canum et hominum, projectam cervisiam et piscium reliquias, aliasque sordes non nominandas.*"[3] I quote the words of this eminent observer. The traveller from the interior of Africa would hardly make a worse report.

Such was England. But this story of savagery and barbarism is not peculiar to that country. I might take other countries, one by one, and exhibit the original

[1] Leges Regis Edwardi Confessoris, XXV. *De Judeis:* Ancient Laws and Institutes of England, ed. Thorpe, Vol. I. p. 453. Milman, History of the Jews, (London, 1863,) Vol. III. pp. 238, 249.

[2] Pii Secundi Commentarii Rerum Memorabilium quæ Temporibus suis contigerunt, (Romæ, 1584,) pp. 6-7.

[3] Erasmus Rot. Francisco, Cardinalis Eboracensis Medico [A. D. 1515], — Epist. 432, App.: Opera, (Lugd. Batav., 1703,) Tom. III. col. 1815. Jortin's Life of Erasmus, (London, 1808,) Vol. I. p. 69; III. p. 44.

degradation and the present elevation. I might take France. I content myself with one instance only. An authentic incident of French history, recorded by a contemporary witness, and associated with famous names in the last century, shows the little recognition at that time of a common humanity. And this story concerns a lady, remarkable among her sex for various talent, and especially as a mathematician, and the French translator of Newton, — Madame Duchâtelet. This great lady, the friend of Voltaire, found no difficulty in undressing before the men-servants of her household, not considering it well-proved that such persons were of the Human Family. This curious revelation of manners, which arrested the attention of De Tocqueville in his remarkable studies on the origin of the French Revolution,[1] if reported from Africa, would be recognized as marking a most perverse barbarism.

These are illustrations only, which might be multiplied and extended indefinitely, but they are sufficient. Here, within a limited sphere, obvious to all, is the operation of that law which governs Universal Man. Progress here prefigures progress everywhere; nay, progress here is the first stage in the world's progress. Nobody doubts the progress of England; nobody doubts the progress of France; nobody doubts the progress of the European Family, wherever distributed, in all quarters of the globe. But must not the same law under which these have been elevated exert its equal influence on the whole Family of Man? Is it not with people as with individuals? Some arrive early, others tardily. Who has not observed, that, independently of

[1] L'Ancien Régime et la Révolution, (7me édit., Paris, 1866,) p. 269.

original endowment, the progress of the individual depends upon the influences about him? Surrounded by opportunity and trained with care, he grows into the type of Civilized Man; but, on the other hand, shut out from opportunity and neglected by the world, he remains stationary, always a man, entitled from his manhood to Equal Rights, but an example of inferiority, if not of degradation. Unquestionably it is the same with a people. Here, again, opportunity and a training hand are needed.

To the inquiry, How is this destiny to be accomplished? I answer, Simply by recognizing the law of Unity, and acting accordingly. The law is plain; obey it. Let each people obey the law at home; its extension abroad will follow. The standard at home will become the standard everywhere. The harmony at home will become the harmony of mankind. Drive Caste from this Republic, and it will be, like Cain, "a fugitive and a vagabond in the earth."

Therefore do I now plead for our Common Humanity in all lands. Especially do I plead for the African, not only among us, but in his own vast, mysterious home, where for unknown centuries he has been the prey of the spoiler. He may be barbarous, perhaps savage; but so have others been, who are now in the full enjoyment of civilization. If you are above him in any respect, then by your superiority are you bound to be his helper. Where much is given much is required; and this is the law for a nation, as for an individual.

The unhappy condition of Africa, a stranger to civilization, is often invoked against a Common Humanity. Here again is that sciolism which is the inseparable

ally of every ignoble pretension. It is easy to explain this condition without yielding to a theory inconsistent with God's Providence. The key is found in her geographical character, affording few facilities for intercommunication abroad or at home. Ocean and river are the natural allies of civilization, as England will attest; for such was their early influence, that Cæsar, on landing, remarked the superior condition of the people on the coast.[1] Europe, indented by seas on the south and north, and penetrated by considerable rivers, will attest also. The great geographer, Carl Ritter, who has placed the whole globe in the illumination of geographical science, shows that the relation of interior spaces to the extent of coast has a measurable influence on civilization: and here is the secret of Africa. While all Asia is five times as large as Europe, and Africa more than three times as large, the littoral margins have a different proportion. Asia has 30,800 miles of coast; Europe 17,200; and Africa only 14,000. For every 156 square miles of the European continent there is one mile of coast, while in Africa one mile of coast corresponds to 623 square miles of continent. The relative extension of coast in Europe is four times greater than in Africa. Asia is in the middle between the two extremes, having for every 459 square miles one mile of coast; and so also is Asia between the two in civilization. There is still another difference, with corresponding advantage to Europe. One third part of Europe is in the nature of ramification from the mass, furnishing additional opportunities; whereas Africa is a solid, impenetrable continent, without ramifications, without opening gulfs or navigable rivers, except the Nile, which

[1] De Bello Gallico, Lib. V. cap. 14.

once witnessed the famous Egyptian civilization.[1] And now, in addition to all these opportunities by water, Europe has others not less important from a reticulation of railways, bringing all parts together, while Africa is without these new-born civilizers. All these things are apparent and beyond question; nor can their influence be doubted. And thus is the condition of Africa explained without an insult to her people or any new apology for Caste.

The attempt to disparage the African as inferior to other men, except in present condition, shows that same ever-present sciolism. Does Humboldt repel the assumption of superiority, and beautifully insist that no people are "in themselves nobler than others"?[2] Then all are men, all are brothers, of the same Human Family, with superficial and transitional differences only. Plainly, no differences can make one color superior to another. And looking carefully at the African, in the seclusion and isolation of his native home, we see sufficient reason for that condition which is the chief argument against him. It is doubtful if any people has become civilized without extraneous help. Britain was savage when Roman civilization intervened; so was Gaul. Cadmus brought letters to Greece; and what is the story of Prometheus, who stole fire from Heaven, but an illustration of this law? The African has not stolen fire; no Cadmus has brought letters to him; no Roman civilization has been extended over his continent. Meanwhile left to savage life, he has been a perpetual victim, hunted down at home to feed the bloody

[1] Ritter, Erdkunde, (Berlin, 1832,) Theil II. ss. 22–25. Guyot, The Earth and Man, (Boston, 1850,) pp. 44–47.

[2] Cosmos, tr. Otté, Vol. I. p. 368.

maw of Slavery, and then transported to another hemisphere, always a slave. In such condition Nature has had small opportunity for development. No kindly influences have surrounded his home; no voice of encouragement has cheered his path; no prospect of trust or honor has awakened his ambition. His life has been a Dead Sea, where apples of Sodom floated. And yet his story is not without passages which quicken admiration and give assurance for the Future, — at times melting to tenderness, and at times inspiring to rage, that these children of God, with so much of His best gifts, should be so wronged by their brother man.

The ancient poet tells us that there were heroes before Agamemnon,[1] — that is, before the poet came to praise. Who knows the heroes of those vast unvisited recesses where there is no history and only short-lived tradition? But among those transported to this hemisphere heroes have not been wanting. Nowhere in history was the heroical character more conspicuous than in our fugitive slaves. Their story, transferred to Greece or Rome, would be a much-admired chapter, from which youth would derive new passion for Liberty. The story of the African in our late war would be another chapter, awakening kindred emotion. But it is in a slave of the West Indies, whose parents were stolen from Africa, that we find an example of genius and wisdom, courage and character, with all the elements of general and ruler. The name borne by this remarkable person as slave was Toussaint, but his success in forcing an *opening* everywhere secured for him the addition of "l'Ou-

[1] "Vixere fortes ante Agamemnona
Multi."
HORAT. *Carm.* Lib. IV. ix. 25-26.

verture," making his name Toussaint l'Ouverture, Toussaint *the Opening*, by which he takes his place in history. He was opener for his people, whom he advanced from Slavery to Freedom, and then sank under the power of Napoleon, who sent an army and fleet to subdue him.[1] More than Agamemnon, or any chief before Troy, — more than Spartacus, the renowned leader of the servile insurrection which made Rome tremble, — he was a hero, endowed with a higher nature and better faculties; but he was an African, jet black in complexion. The height that he reached is the measure of his people. Call it high-water mark, if you will; but this is the true line for judgment, and not the low-water mark of Slavery, which is always adopted by the apologists for Caste. Toussaint l'Ouverture is the actual standard by which the African must be judged.

When studied where he is chiefly seen, — not in the affairs of government, but in daily life, — the African awakens attachment and respect. The will of Mr. Upshur, Secretary of State under President Tyler, describes a typical character. Here are the remarkable words: —

"I emancipate and set free my servant, David Rich, and direct my executors to give him *one hundred dollars*. I recommend him, in the strongest manner, to the respect, esteem, and confidence of any community in which he may happen to live. He has been my slave for twenty-four years, during which time he has been trusted to every extent, and in every respect. My confidence in him has been unbounded; his relation to myself and family has always been such as to afford him daily opportunities to deceive and injure us,

[1] Métral, Histoire de l'Expédition des Français à Saint-Domingue, sous le Consulat de Napoléon Bonaparte; suivie des Mémoires et Notes d'Isaac Louverture sur la même Expédition, et sur la Vie de son Père. Paris, 1825.

and yet he has never been detected in a serious fault, nor even in an intentional breach of the decorums of his station. His intelligence is of a high order, his integrity above all suspicion, and his sense of right and propriety always correct and even delicate and refined. I feel that he is justly entitled to carry this certificate from me into the new relations which he now must form. It is due to his long and most faithful services, and to the sincere and steady friendship which I bear him. In the uninterrupted and confidential intercourse of twenty-four years, I have never given, nor had occasion to give him, an unpleasant word. I know no man who has fewer faults or more excellences than he."[1]

The man thus portrayed was an African, whose only school was Slavery. Here again is the standard of this people.

Nor is there failure in loftiness of character. With heroism more beautiful than that of Mutius Scævola, a slave in Louisiana, as long ago as 1753, being compelled to be executioner, cut off his right hand with an axe, that he might avoid taking the life of his brother slave.[2]

The apologist for Caste will be astonished to know, but it is none the less true, that the capacity of the African in scholarship and science is better attested than that of anybody claiming to be his master. What modern slave-master has taught the Latin like Juan Latino at Seville, in Spain, — written it like Capitein at the Hague, or Williams at Jamaica, — gained academic honors like those accorded to Amo by the Uni-

[1] Nell, Services of Colored Americans in the Wars of 1776 and 1812, pp. 23-24.

[2] Dumont, Mémoires Historiques sur la Louisiane, (Paris, 1753,) Tom. II. pp. 244-6. Mercier, Mon Bonnet de Nuit, art. *Morale*, (Amsterdam, 1784,) Tom. II. p. 226.

versity of Wittenberg? What modern slave-master has equalled in science Banneker of Maryland, who, in his admirable letter to Jefferson, avows himself "of the African race, and in that color which is natural to them, of the deepest dye"?[1] These instances are all from the admirable work of the good Bishop Grégoire, "De la Littérature des Nègres."[2] Recent experience attests the singular aptitude of the African for knowledge, and his delight in its acquisition. Nor is there any doubt of his delight in doing good. The beneficent system of Sunday Schools in New York is traced to an African woman, who first attempted this work, and her school was for all alike, without distinction of color.[3]

To the unquestionable capacity of the African must be added simplicity, amenity, good-nature, generosity, fidelity. Mahometans, who know him well, recognize his superior fidelity. And such also is the report of travellers not besotted by Slavery, from Mungo Park to Livingstone, who testify also to tenderness for parents, respect for the aged, hospitality, and patriarchal virtues reviving the traditions of primitive life. "Strike me, but do not curse my mother," said an African slave to his master.[4] And Leo Africanus, the early traveller, describes a chief at Timbuctoo, "very black in complexion, but most fair in mind and disposition."[5] Others dwell on his Christian character, and especially his

[1] Copy of a Letter from Benjamin Banneker to the Secretary of State, with his Answer, (Philadelphia, 1792,) p. 6.

[2] Chapitres VII., VIII.

[3] Catherine Ferguson: Lossing's Eminent Americans, p. 404.

[4] Mungo Park, Travels in the Interior Districts of Africa, (London, 1816,) Vol. I. pp. 45, 257. Grégoire, De la Littérature des Nègres, (Paris, 1808,) p. 118.

[5] Joannes Leo Africanus, Africæ Descriptio, (Lugd. Batav., Elzevir, 1632,) Lib. VII. p. 646.

susceptibility to those influences which are peculiarly Christian, — so that Saint Bernard could say of him, "*Felix Nigredo, quæ mentis candorem parit.*"[1] Of all people he is the mildest and most sympathetic. Hate is a plant of difficult growth in his bosom. How often has he returned the harshness of his master with care and protection! The African, more than the European, is formed by Nature for the Christian graces.

It is easy to picture another age, when the virtues which ennoble the African will return to bless the people who now discredit him, and Christianity will receive a new development. In the Providence of God the more precocious and harder nature of the North is called to make the first advance. Civilization begins through knowledge. An active intelligence performs the part of opening the way. But it may be according to the same Providence, that the gentler people, elevated in knowledge, will teach their teachers what knowledge alone cannot impart, and the African shall more than repay all that he receives. The pioneer intelligence of Europe going to blend with the gentleness of Africa will be a blessed sight, but not more blessed than the gentleness of Africa returning to blend with that same intelligence at home. Under such combined influences men will not only know and do, but they will feel also; so that knowledge in all its departments, and life in all its activities, will have the triumphant inspiration of Human Brotherhood.

In this work there is no room for prejudice, timidity, or despair. Reason, courage, and hope are our allies,

[1] Serm. XXV., De Nigredine et Formositate Sponsæ, id est Ecclesiæ: Opera, Edit. Benedict., (Paris, 1839,) Tom. I. col. 2814.

while the bountiful agencies of Civilization open the way. Time and space, ancient tyrants keeping people apart, are now overcome. There is nothing of aspiration for Universal Man which is not within the reach of well-directed effort, — no matter in what unknown recess of continent, no matter on what distant island of the sea. Wherever Man exists, there are the capacities of manhood, with that greatest of all, the capacity for improvement; and the civilization we have reached supplies the means.

As in determining the function of Government, so here again is the necessity of knowledge. Man must know himself, and that law of Unity appointed for the Human Family. Such is the true light for our steps. Here are guidance and safety. Who can measure the value of knowledge? What imagination can grasp its infinite power? As well measure the sun in its glory. The friendly lamp in our streets is more than the police. Light in the world is more than armies or navies. Where its rays penetrate, there has civilization begun. Not the earth, but the sun, is the centre of our system; and the noon-day effulgence in which we live and move symbolizes that other effulgence which is found in knowledge.

Great powers are at hand, ministers of human progress. I name two only: first, the printing-press; and, secondly, the means of intercommunication, whether by navigation or railways, represented by the steam-engine. By these civilization is extended and secured. It is not only carried forward, but fixed so that there can be no return, — like the wheel of an Alpine railway, which cannot fall back. Every rotation is a sure advance. Here is what Greece and Rome never knew, and more

than Greece and Rome have contributed to man. By the side of these two simple agencies how small all that has come to us from these two politest nations of Antiquity! We can better spare Greece and Rome than the printing-press and steam-engine. Not a triumph in literature, art, or jurisprudence, from the story of Homer and the odes of Horace to the statue of Apollo and the bust of Augustus, from the eloquence of Demosthenes and Cicero to that Roman Law which has become the law of the world, that must not yield in value to these two immeasurable possessions. To the printing-press and steam-engine add now their youthful handmaid, the electric telegraph, whose swift and delicate fingers weave the thread by which nations are brought into instant communion, while great cities, like London and Paris, New York and San Francisco, become suburbs to each other, and all mankind feel together the throb of joy or sorrow. Through these incomparable agencies is knowledge made coextensive with space and time on earth. No distance of place or epoch it will not pervade. Thus every achievement in thought or science, every discovery by which Man is elevated, becomes the common property of the whole Human Family. There can be no monopoly. Sooner or later all enjoy the triumph. Standing on the shoulders of the Past, Man stands also on the shoulders of every science discovered, every art advanced, every truth declared. There is no height of culture or of virtue — if virtue itself be not the highest culture — which may not be reached. There is no excellence of government or society which may not be grasped. Where is the stopping-place? Where the goal? One obstacle is overcome only to find another, which is overcome, and

then another also, in the ascending scale of human improvement.

And then shall be fulfilled the great words of prophecy, which men have read so long with hope darkened by despair: "The earth shall be full of the knowledge of the Lord, as the waters cover the sea"; "it shall come that I will gather all nations and tongues, and they shall come and see my glory."[1] The promises of Christianity, in harmony with the promises of Science, and more beautiful still, will become the realities of earth; and that precious example wherein is the way of life will be another noon-day sun for guidance and safety.

The question *How?* is followed by that other question *When?* The answer is easy. Not at once; not by any sudden conquest; not in the lifetime of any individual man; not in any way which does not recognize Nature as co-worker. It is by constant, incessant, unceasing activity in conformity with law that Nature works; and so in these world-subduing operations Man can be successful only in harmony with Nature. Because in our brief pilgrimage we are not permitted to witness the transcendent glory, it is none the less certain. The peaceful conquest will proceed, and every day must contribute its fruits.

At the beginning of the last century Russia was a barbarous country, shut out from opportunities of improvement. Authentic report attests its condition. Through contact with Europe it was vitalized. The life-giving principle circulated, and this vast empire felt the change. Exposed to European contact at one

[1] Isaiah, xi. 9, lxvi. 18.

point only, here the influence began; but the native energies of the people, under the guidance of a powerful ruler, responded to this influence, and Russia came within the widening circle of European civilization. Why may not this experience be repeated elsewhere, and distant places feel the same beneficent power?

To help in this work it is not necessary to be emperor or king. Everybody can do something, for to everybody is given something to do; and it is by this accumulation of activities, by this succession of atoms, that the result is accomplished. I use trivial illustrations, when I remind you that the coral-reef on which navies are wrecked is the work of the multitudinous insect, — that the unyielding stone is worn away by drops; but this is the law of Nature, under which no influence is lost. Water and air both testify to the slightest movement. Not a ripple stirred by the passing breeze or by the freighted ship cleaving the sea, which is not prolonged to a thousand shores, leaving behind an endless progeny, so long as ocean endures. Not a wave of air set in motion by the human voice, which is not prolonged likewise into unknown space. But these watery and aërial pulses typify the acts of Man. Not a thing done, not a word said, which does not help or hinder the grand, the beautiful, the holy consummation. And the influence is in proportion to the individual or nation from whom it proceeds. God forbid that our nation should send through all time that defiance of human nature which is found in Caste!

There are two passages of the New Testament which are to me of infinite significance. We read them often, perhaps, without comprehending their value. The first is with regard to leaven, when the Saviour said, "The

kingdom of heaven is like unto leaven";[1] and then Saint Paul, taking up the image, on two different occasions, repeats, "A little leaven leaveneth the whole lump."[2] In this homely illustration we see what is accomplished by a small influence. A little changes all. Here again are the acts of Man typified. All that we do is leaven; all that our country does is leaven. Everybody in his sphere contributes leaven, and helps his country to contribute that mighty leaven which will leaven the whole mighty lump. The other passage — difficult to childhood, though afterwards recognized as a faithful record of human experience — is where we are told, "For whosoever hath, to him shall be given, and he shall have more abundance."[3] Here to me is a new incentive to duty. Because the world inclines to those who have, therefore must we study to serve those who have not, that we may counteract the worldly tendency. Give to the poor and lowly, give to the outcast, give to those degraded by their fellow-men, that they may be elevated in the scale of Humanity, — assured that what we give is not only valuable in itself, but the beginning of other acquisitions, — that the knowledge we convey makes other knowledge easy, — that the right we recognize helps to secure all the Rights of Man. Give to the African only his due, and straightway the promised abundance will follow.

In leaving this question, which I have opened to you so imperfectly, I am impressed anew with its grandeur. The best interests of our country and the best interests

[1] Matthew, xiii. 33.
[2] 1 Corinthians, v. 6; Galatians, v. 9.
[3] Matthew, xiii. 12.

of mankind are involved in the answer. Let Caste prevail, and Civilization is thwarted. Let Caste be trampled out, and there will be a triumph which will make this Republic more than ever an example. The good influence will extend in prolonged pulsations, reaching the most distant shores. Not a land which will not feel the spread, just in proportion to its necessities. Above all, Africa will feel it; and the surpassing duty which Civilization owes to this whole continent, where man has so long degraded his fellow-man, will begin to be discharged, while the voice of the Great Shepherd is heard among its people.

In the large interests beyond, I would not lose sight of the practical interests at home. It is important for our domestic peace, not to speak of our good name as a Republic, that this question should be settled. Long enough has its shadow rested upon us, and now it lowers from an opposite quarter. How often have I said in other places that nothing can be settled which is not right! And now I say that there can be no settlement here except in harmony with our declared principles and with universal truth. To this end Caste must be forbidden. "Haply for I am black," said Othello; "Haply for I am yellow," repeats the Chinese: all of which may be ground for personal like or dislike, but not for any denial of rights, or any exclusion from that equal copartnership which is the promise of the Republic to all men.

Here, as always, the highest safety is in doing right. Justice is ever practical, ever politic; it is the best practice, the best policy. Whatever reason shows to be just cannot, when reduced to practice, produce other than good. And now I simply ask you to be just. To

those who find peril in the growing multitudes admitted to citizenship I reply, that our Republic assumed these responsibilities when it declared the equal rights of all men, and that just government stands only on the consent of the governed. Hospitality of citizenship is the law of its being. This is its great first principle; this is the talisman of its empire. Would you conquer Nature, follow Nature; and here, would you conquer physical diversities, follow that moral law declared by our fathers, which is the highest law of Nature, and supreme above all men. Welcome, then, to the stranger hurrying from opposite shores, across two great oceans, — from the East, from the West, — with the sun, against the sun! Here he cannot be stranger. If the Chinese come for labor only, we have the advantage of their wonderful and docile industry. If they come for citizenship, then do they offer the pledge of incorporation in our Republic, filling it with increase. Nor is there peril in the gifts they bring. As all rivers are lost in the sea, which shows no sign of their presence, so will all peoples be lost in the widening confines of our Republic, with an ocean-bound continent for its unparalleled expanse, and one harmonious citizenship, where all are equal in rights, for its gentle and impartial sway.

CURRENCY.

REMARKS IN THE SENATE, ON INTRODUCING A BILL TO AMEND THE BANKING ACT, AND TO PROMOTE THE RETURN TO SPECIE PAYMENTS, DECEMBER 7, 1869.

THE bill having been read twice by its title, Mr. Sumner said: —

AT the proper time I shall ask the reference of this bill to the Committee on Finance; and if I can have the attention of my honorable friend, the Chairman of that Committee [Mr. SHERMAN], I should like now, as I have ventured to introduce the bill, to specify for his consideration seven different reasons in favor of it. It will take me only one minute.

MR. SHERMAN. I should like to have the bill read, if the Senator has no objection.

The Secretary accordingly read the bill in full, as follows: —

Be it enacted, &c., That so much of the Banking Act as limits the issue of bills to $300,000,000 is hereby repealed, and existing banks may be enlarged and new banks may be organized at the discretion of the Secretary of the Treasury; but no more bills than are now authorized by the Banking Act shall hereafter be issued, unless the Secretary of the Treasury, at the time of their issue, can and does cancel and destroy a like amount of legal-tenders; and the increase of bank-bills hereby authorized shall not exceed $50,000,000 a year, which amount shall be so distributed by the Secretary of the Treasury as to equalize, as near as possible, the banking interest of the different States.

MR. SUMNER. Now, Mr. President, I wish at this moment merely to indicate the reasons in favor of that proposition.

1. It will create a demand for national bonds, and to this extent fortify the national credit.

2. It will tend to satisfy those parts of the country, especially at the South and West, where currency and banks are wanting, and thus arrest a difficult question.

3. It will not expand or contract the currency; so that the opposite parties on these questions may support it.

4. Under it the banks will gradually strengthen themselves and prepare to resume specie payments.

5. It will give the South and West the opportunity to organize banks, and will interest those parts of the country to this extent in the national securities and the national banking system, by which both will be strengthened.

6. It will within a reasonable time relieve the country of the whole greenback system, and thus dispose of an important question.

7. It will hasten the return to specie payments.

Now I believe every one of these reasons is valid, and I commend them to my excellent friend from Ohio.

The bill was then laid on the table, and ordered to be printed.

COLORED PHYSICIANS.

RESOLUTION AND REMARKS IN THE SENATE, ON THE EXCLUSION OF COLORED PHYSICIANS FROM THE MEDICAL SOCIETY OF THE DISTRICT OF COLUMBIA, DECEMBER 9, 1869.

I OFFER the following resolution, and ask for its immediate consideration:—

Resolved, That the Committee on the District of Columbia be directed to consider the expediency of repealing the charter of the Medical Society of the District of Columbia, and of such other legislation as may be necessary in order to secure for medical practitioners in the District of Columbia equal rights and opportunities without distinction of color.

I hope there can be no objection to this proposition, which has become necessary from a recent incident. A medical practitioner in Washington, Dr. Augusta, who had served as a surgeon in the Army of the United States and was brevetted as a Lieutenant-Colonel, who had enjoyed office and honor under the National Government, has been excluded from the Medical Society of the District of Columbia on that old reason so often and persistently urged, merely of color. It is true that Dr. Augusta is guilty of a skin which is a shade different from that prevailing in the Medical Society, but nobody can impeach his character or his professional position. Dr. Purvis, another practitioner, obnoxious only from the skin, was excluded at the same time. There is no

doubt that this was accomplished by an organized effort, quickened by color-phobia.

This exclusion, besides its stigma on a race, is a practical injury to these gentlemen, and to their patients also, who are thus shut out from valuable opportunities and advantages. By a rule of the Medical Society, "No member of this association shall consult with or meet in a professional way any resident practitioner of the District who is not a member thereof, after said practitioner shall have resided six months in said District." Thus do members of the Society constitute themselves a medical oligarchy. When asked to consult with Dr. Augusta, some of them have replied: "We would like to consult with Dr. Augusta; we believe him to be a good doctor; but he does not belong to our Society, and therefore we must decline; but we will take charge of the case": and this has been sometimes done. Is not this a hardship? Should it be allowed to exist?

Details illustrate still further the character of this wrong. These colored practitioners are licensed, like members of the Society; but this license does not give them the privilege of attending the meetings of the Society, where medical and surgical subjects are discussed, and where peculiar and interesting cases with their appropriate treatment are communicated for the benefit of the profession; so that they are shut out from this interesting source of information, which is like a constant education, and also from the opportunity of submitting the cases in their own practice.

I confess, Sir, that I cannot think of the medical profession at the National Capital engaged in this warfare on their colored brethren without sentiments which it is

difficult to restrain. Their conduct, in its direct effect, degrades a long-suffering and deeply injured race; but it also degrades themselves. Nobody can do such a meanness without degradation. In my opinion these white oligarchs ought to have notice, and I give them notice now, that this outrage shall not be allowed to continue without remedy, if I can obtain it through Congress. The time has passed for any such pretension.

I hope, Sir, there can be no objection to the resolution. It ought to pass unanimously. Who will array himself on the side of this wrong?

The resolution was agreed to, and the Committee proceeded to a full investigation, of which they made extended report,[1] accompanied by a bill for the repeal of the Society's charter; but adverse influence, continued through two sessions to the expiration of the Congress, succeeded in preventing action.

[1] Senate Reports, No. 29, 41st Cong. 2d Sess.

THE LATE HON. WILLIAM PITT FESSENDEN, SENATOR OF MAINE.

REMARKS IN THE SENATE ON HIS DEATH, DECEMBER 14, 1869.

MR. PRESIDENT, — A seat in this Chamber is vacant. But this is a very inadequate expression for the present occasion. Much more than a seat is vacant. There is a void difficult to measure, as it will be difficult to fill. Always eminent from the beginning, Mr. Fessenden during these latter years became so large a part of the Senate that without him it seems to be a different body. His guiding judgment, his ready power, his presence so conspicuous in debate, are gone, taking away from this Chamber that identity which it received so considerably from him.

Of all the present Senate, one only besides myself witnessed his entry into this Chamber. I cannot forget it. He came in the midst of that terrible debate on the Kansas and Nebraska Bill by which the country was convulsed to its centre, and his arrival had the effect of a reinforcement on a field of battle. Those who stood for Freedom then were few in numbers, — not more than fourteen, — while thirty-seven Senators in solid column voted to break the faith originally plighted to Freedom, and to overturn a time-honored landmark, opening that vast Mesopotamian region to the curse of Slavery. Those anxious days are with difficulty comprehended by a Senate where Freedom rules. One

more in our small number was a sensible addition. We were no longer fourteen, but fifteen. His reputation at the bar and his fame in the other House gave assurance which was promptly sustained. He did not wait, but at once entered into the debate with all those resources which afterwards became so famous. The scene that ensued exhibited his readiness and courage. While saying that the people of the North were fatigued with the threat of Disunion, that they considered it as "mere noise and nothing else," he was interrupted by Mr. Butler, of South Carolina, always ready to speak for Slavery, exclaiming, "If such sentiments as yours prevail, I want a dissolution right away," — a characteristic intrusion doubly out of order, — to which the new-comer rejoined, "Do not delay it on my account; do not delay it on account of anybody at the North." The effect was electric; but this instance was not alone. Douglas, Cass, and Butler interrupted only to be worsted by one who had just ridden into the lists. The feelings of the other side were expressed by the Senator from South Carolina, who, after one of the flashes of debate which he had provoked, exclaimed: "Very well, go on; I have no hope for you." All this will be found in the "Globe,"[1] precisely as I give it; but the "Globe" could not picture the exciting scene, — the Senator from Maine erect, firm, immovable as a jutting promontory against which the waves of Ocean tossed and broke in dissolving spray. There he stood. Not a Senator, loving Freedom, who did not feel on that day that a champion had come.

This scene, so brilliant in character, illustrates Mr.

[1] Congressional Globe, 33d Cong. 1st Sess., Appendix, pp. 321, 323: Debate on the Nebraska and Kansas Bill, March 3, 1854.

Fessenden's long career in the Senate. All present were moved, while those at a distance were less affected. His speech, which was argumentative, direct, and pungent, exerted more influence on those who heard it than on those who only read it, vindicating his place as debater rather than orator. This place he held to the end, without a superior, — without a peer. Nobody could match him in immediate and incisive reply. His words were swift, and sharp as a cimeter, — or, borrowing an illustration from an opposite quarter, he "shot flying" and with unerring aim. But while this great talent secured for him always the first honors of debate, it was less important with the country, which, except in rare instances, is more impressed by ideas and by those forms in which truth is manifest.

The Senate has changed much from its original character, when, shortly after the formation of the National Government, a Nova Scotia paper, in a passage copied by one of our own journals, while declaring that "the habits of the people here are very favorable to oratory," could say, "There is but one assembly in the whole range of the Federal Union in which eloquence is deemed unnecessary, and, I believe, even absurd and obtrusive, — to wit, the Senate, or upper house of Congress. They are merely a deliberative meeting, in which every man delivers his concise opinion, one leg over the other, as they did in the first Congress, where an harangue was a great rarity."[1] Speech was then for business and immediate effect in the Chamber. Since

[1] Gazette of the United States, Philadelphia, December 31, 1791. From an article entitled "Sketches of Boston and its Inhabitants," purporting to be "extracted from a series of letters published in a late Nova Scotia paper."

then the transformation has proceeded, speech becoming constantly more important, until now, without neglect of business, the Senate has become a centre from which to address the country. A seat here is a lofty pulpit with a mighty sounding-board, and the whole wide-spread people is the congregation.

As Mr. Fessenden rarely spoke except for business, what he said was restricted in its influence, but it was most effective in this Chamber. Here was his empire, and his undisputed throne. Of perfect integrity and austerest virtue, he was inaccessible to those temptations which in various forms beset the avenues of public life. Most faithfully and constantly did he watch the interests intrusted to him. Here he was a model. Holding the position of Chairman of the Finance Committee, while it yet had those double duties which are now divided between two important committees, he became the guardian of the National Treasury, both in its receipts and its expenditures, so that nothing was added to it or taken from it without his knowledge; and how truly he discharged this immense trust all will attest. Nothing could leave the Treasury without showing a passport. This service was the more momentous from the magnitude of the transactions involved; for it was during the whole period of the war, when appropriations responded to loans and taxes, — all being on a scale beyond precedent in the world's history. On these questions, sometimes so sensitive and difficult and always so grave, his influence was beyond that of any other Senator and constantly swayed the Senate. All that our best generals were in arms he was in the financial field.

Absorbed in his great duties, and confined too much

by the training of a profession which too often makes its follower slave where he is not master, he forgot sometimes that championship which shone so brightly when he first entered the Senate. Ill-health came with its disturbing influence, and, without any of the nature of Hamlet, his conduct at times suggested those words by which Hamlet pictures the short-comings of life. Too often, in his case, "the native hue of resolution was sicklied o'er with the pale cast of thought"; and perhaps I might follow the words of Shakespeare further, and picture "enterprises of great pith and moment," which, "with this regard, their currents turned awry and lost the name of action."

Men are tempted by the talent which they possess; and he could not resist the impulse to employ, sometimes out of place, those extraordinary powers which he commanded so easily. More penetrating than grasping, he easily pierced the argument of his opponent, and, once engaged, he yielded to the excitement of the moment and the joy of conflict. His words warmed, as the Olympic wheel caught fire in the swiftness of the race. If on these occasions there were sparkles which fell where they should not have fallen, they cannot be remembered now. Were he still among us, face to face, it were better to say, in the words of that earliest recorded reconciliation, —

> "Let us no more contend nor blame
> Each other, blamed enough elsewhere, but strive
> In offices of love how we may lighten
> Each other's burden in our share of woe." [1]

Error and frailty checker the life of man. If this were not so, earth would be heaven; for what could add

[1] Paradise Lost, Book X. 958-61.

to the happiness of life free from error and frailty? The Senator we mourn was human; but the error and frailty which belonged to him often took their color from virtue itself. On these he needs no silence, even if the grave which is now closing over him did not refuse its echoes except to what is good.

CUBAN BELLIGERENCY.

REMARKS IN THE SENATE, DECEMBER 15, 1869.

MR. CARPENTER, of Wisconsin, having moved to proceed to the consideration of a resolution previously introduced by him, setting forth, —

"That in the opinion of the Senate the thirty gun-boats purchased or contracted for in the United States by or on behalf of the Government of Spain, to be employed against the revolted district of Cuba, should not be allowed to depart from the United States during the continuance of that rebellion,"—

Mr. Sumner said: —

I SHALL interpose no objection to that; but I feel it my duty to suggest that it does seem to me that a discussion of that question is premature, and for this reason: there is no information with regard to those gun-boats now before the Senate, except what we derive from the newspapers. I understand that the Department of State will in a few days, as soon as the documents can be copied, communicate to the Senate all that it has with reference to our relations with Cuba, which will probably cover the question of the gun-boats. There is a question of fact and of law, and I for one am indisposed to approach its discussion until I have all the information now in the possession of the Government. At the same time my friend from Wisconsin will understand that I have no disposition to interfere with any desires he may have. If he wishes, therefore, to go on, I shall content myself with the suggestions that I have made.

Mr. Carpenter's motion prevailing, he proceeded with an argument in support of the resolution in question, to which Mr. Sumner replied as follows: —

MR. PRESIDENT, — The Senator from Wisconsin closed by saying that he understood that eighteen of the gunboats would leave to-morrow. I have had put into my hands a telegram received last night from New York, which I will read, as it relates to that subject: —

"The vessels delivered by Delamater to the representatives of the Spanish Navy have their officers and crews on board and fly the flag of Spain. They are now as completely the property of that Government as is the Pizarro. Unless something not foreseen occurs, they will be at sea to-morrow morning, if not already gone."

"To-morrow morning" is this morning.

But there are eight other boats, that are still unfinished, on the stocks, to which the resolution of the Senator from Wisconsin is applicable.

I have no disposition now to discuss the great question involved in the speech of the Senator from Wisconsin; but the Senator will pardon me, if I venture to suggest that he has misapprehended the meaning of the statute on which he relies. Certainly he has misapprehended it or I have. He has misapprehended it or the Administration has. I do not conceive that the question which he has presented can arise under the statute. The language on which he relies is as follows: —

"If any person shall within the limits of the United States fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, or arming of any ship or vessel,

with intent that such ship or vessel shall be employed in the service of any foreign prince or state, or of any colony, district, or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace," &c.[1]

The operative words on which the Senator relies being "any colony, district, or people," I understand the Senator to insist that under these words Spain cannot purchase ships in the United States to cruise against her Cuban subjects now in revolt. That is the position of the Senator. He states it frankly. To that I specifically reply, that the language of the statute is entirely inapplicable. Those words, if the Senator will consult their history, were introduced for a specific purpose. It was to meet the case of the revolted Spanish colonies already for eight years in arms against the parent Government, having ships in every sea, largely possessing the territories on the Spanish main, and with independence nearly achieved.

There was no question of belligerence. It was admitted by all the civilized world. Nation after nation practically recognized it. Our Government, our courts, every department of the Government, recognized the belligerence of those Spanish colonies. Their independence was recognized more tardily, after ample discussion in these two Chambers as late as 1820; but their belligerence was a fact perfectly established and recognized by every branch of the Government. To meet their case, and for no other object, as I understand it, Mr. Miller, a Representative of South Carolina, on the

[1] Act of April 20, 1818, Sec. 3: Statutes at Large, Vol. III. p. 448.

30th day of December, 1817, introduced the following resolution:—

"*Resolved*, That a committee be appointed to inquire into the expediency of so amending the fourth section of the Act passed on the 3d of March, 1817, entitled 'An Act more effectually to preserve the neutral relations of the United States,' as to embrace within the provisions thereof the armed vessels of a Government at peace with the United States and at war with any colony, district, or people with whom the United States are or may be at peace."[1]

The important words "any colony, district, or people" were introduced to cover the precise case of the revolted Spanish colonies and their precise condition at that moment, there being no question of belligerence. Now the practical question is, whether these words, introduced originally for a specific purpose, having an historic character beyond question, can be extended so as to be applied to insurgents who have not yet achieved a corporate existence, — who have no provinces, no cities, no towns, no ports, no prize courts. Such is the fact. I cannot supply the fact, if it does not exist; nor can the Senator, with his eloquence and with his ardor enlisted in this cause. We must seek the truth. The truth is found in the actual facts. Now do those facts justify the concession which the Senator requires?

The Cuban insurgents, whatever the inspiration of their action, have not reached the condition of belligerents. Such, I repeat, is the fact, and we cannot alter the fact. Here we must rely upon the evidence, which, according to all the information within my reach, is adverse. They do not come within any of the prerequi-

[1] Annals of Congress, 15th Cong. 1st Sess., col. 519.

sites. They have no provinces, no towns, no ports, no prize courts. Without these I am at a loss to see how they can be treated as belligerents by foreign powers. Before this great concession there must be assurance of their capacity to administer justice. Above all, there must be a Prize Court. But nobody pretends that there is any such thing.

MR. CARPENTER. Will the Senator now allow me to ask him one question?

MR. SUMNER. Certainly.

MR. CARPENTER. My question is, if it be not the most favorable opportunity to obtain the facts to libel those boats and get proof on the question?

MR. SUMNER. The Senator will pardon me, if I say I do not think it is. I think that the better way of ascertaining the facts is to send to our authorized agents in Cuba, — we have consuls at every considerable place, — and direct them to report on the facts. I understand such reports have been received by the Department of State. They will be communicated to the Senate. They are expected day by day, and they are explicit, unless I have been misinformed, on this single point, — that, whatever may be the inspiration of that insurrection, it has not yet reached that condition of maturity, that corporate character, which in point of fact makes it belligerent in character.

MR. HOWARD. I do not wish to interrupt the Senator, but I should like to ask a question at this point.

MR. SUMNER. Certainly.

MR. HOWARD. I wish for information on this subject, and I think we all stand in need of it; and I should be very

much obliged to the Senator from Massachusetts, if he is able to do so, if he would give us a statement of the amount of military force actually in the field in Cuba, or the amount of force that is available; and whether the insurgents have established a civil government for themselves, — whether it be or be not in operation as a government. On these subjects I confess my ignorance.

MR. SUMNER. The Senator confesses we are in the dark, and on this account I consider the debate premature. We all need information, and I understand it will be supplied by the Department of State. There is information on the precise point to which the Senator calls attention, and that is as to the number of the forces on both sides. I understand on the side of the insurgents it has latterly very much diminished; and I have been told that they are now little more than *guerrilleros*, and that the war they are carrying on is little more than a guerrilla contest, — that they are not in possession of any town or considerable place. Such is my information.

MR. HOWARD. Have they any government?

MR. SUMNER. I understand they have the government that is in a camp. With regard to that the Senator knows as well as I; but that brings us back again to the necessity of information.

MR. HOWARD. Any civil government, any legislative power for the actual exercise of legislative functions?

MR. SUMNER. I think there is no evidence that there is a legislative body; and I must say I await with great

anxiety the evidence of their action on the subject of Slavery itself. What assurance have we that slavery will be terminated by these insurgents? Have they the will? Have they the power? I know the report that they have abolished slavery, but this report leaves much to be desired. I wish it to be authenticated and relieved from all doubt. It is said that there are two decrees, — one to be read at home, and another to be read abroad. Is this true? And even if not true, is there any assurance that the insurrectionists are able to make this decree good? But while I require the surrender of slavery from the insurrectionists, I make the same requirement of Spain. Why has this power delayed?

MR. MORTON. I ask the Senator if Spain has not recently affirmed the existence of slavery in Cuba and Porto Rico, especially in Porto Rico, by publishing a new constitution guarantying the existence of slavery?

MR. SUMNER. I am not able to inform the Senator precisely on that point. I do know enough, however, to satisfy me that Spain is a laggard on this question; and if my voice could reach her now, it would plead with her to be quick, to make haste to abolish slavery, not only in Cuba, but in Porto Rico. Its continued existence is a shame, and it should cease.

I have no disposition to go into this subject at length. There is, however, one other remark that the Senator from Wisconsin made to which I shall be justified in replying. He alludes to the case of the Hornet, and the proceedings against that vessel.[1] It is not for me now

[1] The case of the Hornet, as stated by Mr. Carpenter, was as follows: — "The Hornet was purchased in this country by Cubans, was taken into the

to vindicate those proceedings. They may have been proper under the statute, or may not; but it is very clear to me that the cases of the Hornet and the Spanish gun-boats are plainly distinguishable, and, if the Senate will pardon me one moment, I will make the distinction, I think, perfectly apparent. We all know that two or three or four or a dozen persons may levy war against the Government, may levy war against the king. A traitor levies war against the king. The king, when he proceeds against the traitor, does not levy war. He simply proceeds in the exercise of his executive functions in order to establish his authority. And in the spirit of this illustration I am disposed to believe that the United States were perfectly justifiable, even under this statute, in arresting the Hornet; but they would not be justifiable in arresting the Spanish gun-boats. The Hornet was levying war against Spain, and therefore subject to arrest. The gun-boats are levying no war, simply because the insurrection against which they are to be used has not reached the condition of war.

MR. CARPENTER. Will the Senator allow me to ask one other question?

MR. SUMNER. Certainly.

MR. CARPENTER. What I want to know is this: whether the condition of neutrality does not necessarily depend upon

open sea outside of the United States, and there armed and manned to cruise against Spain, and started on her way toward the waters of Cuba with arms and supplies for the revolutionists. Owing to the poor quality of her coal, she was unable to pursue her voyage, and put into a port of the United States, when she was libelled by the United States, upon the ground that she was intended for the 'service of the people of a certain colony of the kingdom of Spain, to wit, the island of Cuba,' etc. All of which is charged to be against the third section of the Neutrality Law." — *Congressional Globe*, 41st Cong. 2d Sess., p. 144.

the fact that war is progressing between two parties? Can there be any neutrality, unless there is a contest of arms going on between two somebodies? Now, if it be a violation of our Neutrality Act for one of those bodies to come in and fit out vessels in the United States, is it not equally so for the other? — or is our pretence of neutrality a falsehood, a cheat, and a delusion?

MR. SUMNER. Mr. President, I do not regard it as a question of neutrality. Until the belligerence of these people is recognized, they are not of themselves a power, they are not a people. Therefore there can be no neutrality on the part of our Government between Spain and her revolted subjects, until they come up to the condition of a people. They have not reached that point; and therefore I submit that there is at this moment no question of neutrality, and that the argument of the Senator in that respect was inapplicable. When the belligerence of the insurgents is recognized there will be a case for neutrality, and not before.

ADMISSION OF VIRGINIA TO REPRESENTATION IN CONGRESS.

SPEECHES IN THE SENATE, JANUARY 10, 11, 12, 13, 14, 19, 21, 1870.

JANUARY 10, 1870, the Senate proceeded to the consideration of a Joint Resolution reported from the Committee on the Judiciary, declaring, "That the State of Virginia is entitled to representation in the Congress of the United States," — she having, as was said, "complied in all respects with the Reconstruction Acts."

Mr. Sumner, apprehending that this compliance had been merely formal, and that the Rebel spirit was still the dominant influence in Virginia, urged postponement of the measure for a few days, to afford opportunity for information, remarking: —

I AM assured that there are resolutions of public meetings in different parts of Virginia, that there are papers, letters, communications, all tending to throw light on the actual condition of things in that State, which in the course of a short time, of a few days at furthest, will be presented to the Senate. Under these circumstances, I submit most respectfully, and without preferring any request with reference to myself, that the measure should be allowed to go over for a few days, perhaps for a week, till Monday next, and that it then should be taken up and proceeded with to the end. My object is, that, when the Senate acts on this important measure, it may act wisely, with adequate knowledge, and so that hereafter it may have no occasion to regret its conclusion. How many are there now, Sir,

who, on the information in our papers to-day, would not recall the vote by which Tennessee was declared entitled to her place as a State! You, Sir, have read that report signed by the Representatives of Tennessee, and by her honored Senator here on my right [Mr. BROWNLOW]. From that you will see the condition of things in that State at this moment. Is there not a lesson, Sir, in that condition of things? Does it not teach us to be cautious before we commit this great State of Virginia back to the hands of the people that have swayed it in war against the National Government? Sir, this is a great responsibility. I am anxious that the Senate should exercise it only after adequate knowledge and inquiry. I do not believe that they have the means at this moment of coming to a proper determination.

After extended debate, Mr. Sumner's proposition finally took shape in a motion by his colleague [Mr. WILSON] to postpone the further consideration of the resolution for three days. In response to Mr. Stewart, of Nevada, who had charge of the measure, and who insisted that "no one had been able to find a reason worthy of consideration why they should not proceed and act affirmatively at once," Mr. Sumner said: —

MR. PRESIDENT, — It seems to me that this discussion to-day tends irresistibly to one conclusion, — that the Senate is not now prepared to act. I do not say that it will not be prepared in one, two, or three days, or in a week; but it is not now prepared to act. Not a Senator has spoken, either on one side or the other, who has not made points of law, some of them presented for the first time in this Chamber. Hardly a Senator has spoken who has not presented questions of fact. How are we to determine these? Time is essential. We

must be able to look into the papers, to examine the evidence, and, if my friend will pardon me, to examine also the law, to see whether the conclusion on which he stands so firmly is one on which the Senate can plant itself forevermore. The Senator must bear in mind that what we do now with reference to Virginia we do permanently and irrepealably, and that we affect the interests of that great State, and I submit also the safety of a large portion of its population. Sir, I am not willing to go forward in haste and in ignorance to deal with so great a question. Let us consider it, let us approach it carefully, and give to it something of that attention which the grandeur of the interest involved requires.

I think, therefore, the suggestion of my colleague, that this matter be postponed for several days, is proper; it is only according to the ordinary course of business of the Senate, and it is sustained by manifest reason in this particular case. I should prefer that the postponement were till next Monday, and I will be precise in assigning my reason. It is nothing personal to myself. My friend from New York said, or intimated, that, if the Senator from Massachusetts wished to be accommodated, he would be ready, of course, to consent to gratify him. Now I would not have it placed on that ground; I present it as a question of business; and I, as a Senator interested in the decision of this business, wish to have time to peruse these papers and to obtain that knowledge which will enable me to decide ultimately on the case. I have not now the knowledge that I desire with reference to the actual condition of things in Virginia. I am assured by those in whom I place confidence that in the course of a few

days that evidence will be forthcoming. Will not the Senate receive it? Will it press hastily, heedlessly, recklessly, to a conclusion, which, when reached, it may hereafter find occasion to regret? Let us, Sir, so act that we shall have hereafter no regrets; let us so act that the people of Virginia hereafter may be safe, and that they may express their gratitude to the Congress of the United States which has helped to protect them.

The Senator from Nevada said, that, if we oppose the present bill, we sacrifice the Legislature of the State. I suggest to that Senator, that, if we do not oppose this bill, we sacrifice the people of the State. What, Sir, is a Legislature chosen as this recent Legislature has been chosen in Virginia, composed of recent Rebels still filled and seething with that old Rebel fire, — what is that Legislature in the scale, compared with the safety of that great people? Sir, I put in one scale the welfare of the State of Virginia, the future security of its large population, historic and memorable in our annals, and in the other scale I put a Legislature composed of recent Rebels. To save that Legislature the Senator from Nevada presses forward to sacrifice the people of the State.

The motion to postpone was rejected, — Yeas 25, Nays 26, — and the debate on the Joint Resolution proceeded: the first question being on an amendment offered by Mr. Drake, of Missouri, providing that the passage by the Legislature of Virginia, at any time thereafter, of any act or resolution rescinding or annulling its ratification of the Fifteenth Article of Amendment to the Constitution of the United States should operate to exclude the State from representation in Congress and remand it to its former provisional government.

January 11th, Mr. Sumner, following Mr. Morton, of Indiana, in support of Mr. Drake's proposed amendment, and, with him, maintaining the continued power of Congress over a State after reconstruction, said: —

MR. PRESIDENT, — I have but one word to say, and it is one of gratitude to the Senator from Indiana for the complete adhesion he now makes to a principle of Constitutional Law which I have no doubt is unassailable. The Congress of the United States will have forevermore the power to protect Reconstruction. No one of these States, by anything that it may do hereafter, can escape from that far-reaching power. I call it far-reaching: it will reach just as far as the endeavor to counteract it; it is coextensive with the Constitution itself. I have no doubt of it, and I am delighted that the distinguished Senator from Indiana has given to it the support of his authority.

While I feel so grateful to my friend from Indiana for what he has said on this point, he will allow me to express my dissent from another proposition of his. He says that we are now bound under our Reconstruction Acts to admit Virginia. I deny it.

MR. MORTON. Will the Senator allow me one moment?

MR. SUMNER. Certainly.

MR. MORTON. I do not pretend that there is any clause in the Reconstruction Acts which in express words requires us to admit Virginia upon the compliance with certain conditions; but what I mean to say is, that there went forth with those laws an understanding to the country, as clear and distinct as if it had been written in the statute, that upon a full and honorable compliance with them those States should be admitted. I will ask my friend from Massachusetts if that understanding did not exist?

MR. SUMNER. My answer to the Senator is found in the last section of the Act authorizing the submission of the Constitutions of these States, as follows: —

"That the proceedings in any of said States shall not be deemed final, or operate as a complete restoration thereof, until their action respectively shall be approved by Congress."[1]

What is the meaning of that? The whole case is brought before Congress for consideration. We are to look into it, and consider the circumstances under which these elections have taken place, and see whether we can justly give to them our approval. Is that vain language? Was it not introduced for a purpose? Was it merely for show? Was it for deception? Was it a cheat? No, Sir; it was there with a view to a practical result, to meet precisely the case now before the Senate, — that is, a seeming compliance with the requirements of our Reconstruction policy, but a failure in substance.

Now I will read what was in the bill of March 2, 1867, entitled "An Act to provide for the more efficient government of the Rebel States."[2] It declares in the preamble that "it is necessary that peace and good order should be enforced in said States," — strong language that! — "until loyal and republican State governments can be legally established." That is what Congress is to require. To that end Congress must look into the circumstances of the case; it must consider what the condition of the people there is, — whether this new government is loyal, whether it is in the hands of loyal people. To that duty Congress is summoned by its very legislation; the duty is laid down in advance.

And so you may go through all these Reconstruction

[1] Act of April 10, 1869, Sec. 7: Statutes at Large, Vol. XVI. p. 41.
[2] Statutes at Large, Vol. XIV. p. 428.

statutes, and you will find that under all of them the whole subject is brought back ultimately to the discretion of Congress. This whole subject now is in the discretion of Congress. I trust that Congress will exercise it so that life and liberty and property shall be safe.

January 12th, Mr. Sumner presented a memorial from citizens of Virginia then in Washington, claiming to represent the loyal people of that State, in which they declare themselves "anxious for the prompt admission of the State to representation upon such terms that a loyal civil government may be maintained and the rights of loyal men secured; which," they say, "we feel assured cannot be the case, if any condition less than the application of the test oath to the Legislature shall be imposed by the Congress." As the grounds of this conviction, they point, among other matters, to the continued manifestations of the Rebel spirit in the community, — the ascendency of the Rebel party in the recently elected Legislature, gained, as they insist, "by intimidation, fraud, violence, and prevention of free speech," — and particularly to the evidences of disloyalty, and of meditated bad faith in regard to the new State Constitution, exhibited in speeches and other utterances of the Governor and Members of Assembly, — utterances, on the part of some of the latter, accompanied with gross contumely of a distinguished Member of Congress from Massachusetts: all of which, the memorialists say, "if a hearing can now be had, and which we respectfully request may be granted, we pledge ourselves to show by sworn witnesses of irreproachable character, residing in Virginia."

The memorial was received with denunciation, as "disrespectful," "unjust and abusive," "merely the wailing of those who were defeated," "originating with the view of keeping out Virginia," "trifling with our own plighted faith and honor," — and its presentation criticized with corresponding severity, — the Senators from Nevada leading the assault. Mr. Sumner responded: —

MR. PRESIDENT, — Has it come to this, that the loyal people of Virginia cannot be heard on this floor? that a petition presented by a member of this body, proceeding from them, is to have first the denunciation of the Senator from Nevada on my right [Mr. NYE], and then

the denunciation of the Senator from Nevada on my left [Mr. STEWART]? Why are the loyal people of Virginia to be thus exposed? What have they done? Sir, in what respect is that petition open to exception? The Senator says it is disrespectful. To whom? To this body? To the other Chamber? To the President of the United States? To any branch of this Government? Not in the least. It is disrespectful, according to the Senator from Nevada, to the present Governor of Virginia, and he undertakes to state his case.

Now, Sir, I have nothing to say of the present Governor of Virginia. I am told that he is on this floor; but I have not the honor of his acquaintance, and I know very little about him. I make no allegation, no suggestion, with regard to his former course. He may have been as sound always as the Senator from Nevada himself; but the petitioners from Virginia say the contrary. They are so circumstanced as to know more about him than the Senator from Nevada, or than myself; and they are so circumstanced as to have a great stake in his future conduct. Thus circumstanced, they send their respectful petition to this Chamber, asking a hearing; and what is the answer? Denunciation from one Senator of Nevada echoed by denunciation from the other Senator of Nevada. The voice of Nevada on this occasion is united, it is one, to denounce a loyal petition from Virginia.

Was I not right in presenting the petition? Shall these people be unheard? The Committee which the Senator represents, led by the Senator from Illinois [Mr. TRUMBULL], and now led by himself, are pressing this measure to a precipitate conclusion. These petitioners, having this great interest in the result, ask for a hear-

ing. Several days ago I presumed, respectfully, deferentially, to ask that this measure should be postponed a few days in order to give an opportunity for such a hearing. I was refused. The Senator from Nevada would not consent, and with the assistance of Democrats he crowds this measure forward. Sir, it is natural, allow me to say, that one acting in this new conjunction should trifle with the right of petition. When one begins to act with such allies, I can well imagine that he loses something of his original devotion to the great fundamental principles of our Government.

Something was said by my friend, the other Senator from Nevada [Mr. NYE], on another passage of the petition, referring to a distinguished colleague of my own. Why, Sir, that very passage furnishes testimony against the cause represented by the Senator from Nevada. It shows how little to be trusted are these men. It shows the game of treachery which they have undertaken. It shows how they are intending to press this measure through Congress so as to obtain for Virginia the independence of a State. Are you ready for that conclusion? Are you ready to part with this great control which yet remains to Congress, through which security may be maintained for the rights of all?

Something has been said by different Senators of plighted faith. Sir, there is a faith that is plighted, and by that I will stand, God willing, to the end. It is nothing less than this: to secure the rights of all, without distinction of color, in the State of Virginia. When I can secure those rights, when I can see that they are firmly established beyond the reach of fraud, beyond the violence of opposition, then I am willing that that State shall again assume its independent posi-

tion. But until then I say, Wait! In the name of Justice, in the name of Liberty, for the sake of Human Rights, I entreat the Senate to wait.

January 13th, in response to criticisms by Mr. Trumbull, of Illinois, Mr. Sumner said: —

It was in pursuance of the effort I made on the first day of this week that yesterday I presented a memorial from loyal citizens of Virginia here in Washington. I presented it as a memorial, and asked to have it read. The Senator from Nevada [Mr. Stewart], in the remarks which he so kindly made with regard to me later in the day, said that in asking to have it read I adopted it. I can pardon that remark to the Senator from Nevada, who is less experienced in this Chamber than the Senator from Illinois; but the latter Senator has repeated substantially the same remark. Sir, this is a new position, that in presenting a memorial one adopts it, especially when he asks to have it read. Why, Sir, what is the right of petition? Is it reduced to this, that no petition can be presented unless the Senator approves it, or that no petition can be read at the request of a Senator unless he approves it? Such a limitation on the right of petition would go far to cut it down to its unhappy condition in those pro-slavery days which some of us remember. Sir, I was right in presenting the memorial, and right in asking to have it read.

And now what is its character? It sets forth a condition of things in Virginia which might well make the Senate pause. I think no candid person can have listened to that memorial without seeing that it contains statements with regard to which the Senate ought to be

instructed before it proceeds to a vote. Do you consider, Sir, that when you install this Legislature you consign the people of Virginia to its power? Do you consider that to this body belongs the choice of judges? The whole judiciary of the State is to be organized by it. This may be done in the interests of Freedom and Humanity, or in the ancient interests of the Rebellion. I am anxious that this judiciary should be pure and devoted to Human Rights. But if the policy is pursued which finds such strenuous support, especially from the Senator from Illinois, farewell then to such a judiciary! — that judiciary which is often called the Palladium of the Commonwealth, through which justice is secured, rights protected, and all men are made safe. Instead of that, you will have a judiciary true only to those who have lately been in rebellion. You will have a judiciary that will set its face like flint against those loyalists that find so little favor with the Senator from Illinois. You will have a judiciary that will follow out the spirit which the Senator has shown to-day, and do little else than pursue vindictively these loyalists.

There has been allusion to the Governor of Virginia. The Senator says I have made an assault upon him. Oh, no! How have I assaulted him? I said simply that I understood he was on the floor, as the member-elect from Richmond was on the floor. That is all that I said. But now there is something with regard to this Governor to which I should like to have an answer: possibly the Senator may be able to answer it. I have here a speech purporting to have been made by him at an agricultural fair in the southwest part of Virginia

after the election, from which, with your permission, but, Sir, without adopting it at all or making myself in any way responsible for its contents, I will read.

Mr. Walker, addressing the audience, says: —

"A little talking sometimes does a great deal of good; and that expended in the late canvass I heard in a voice of thunder on the 6th of July, when the people of your noble old Commonwealth declared themselves against vandalism, fraud, and treachery. Virginia has freed herself from the tyranny of a horde of greedy cormorants and unprincipled carpet-baggers, who came to sap her very vitals. I have no other feeling but that of pity for the opposition party, who were deceived and led by adventurers having only their own personal aggrandizement and aims in view, with neither interest, character, nor self-respect at stake; for this a majority of them never had."

Now, Sir, what are the operative words of this remarkable speech? That this very Governor Walker, who finds a vindicator — I may say, adopting a term of the early law, a compurgator — in the Senator from Illinois, announces that by this recent election Virginia has "declared against vandalism, fraud, and treachery,—has freed herself from the tyranny of a horde of greedy cormorants and unprincipled carpet-baggers, who came to sap her very vitals."

Such is the language by which this Governor characterizes loyal people from the North, from the West, from all parts of the country, who since the overthrow of the Rebellion have gone there with their household gods, with their energies, with their character, with their means, to contribute to the resources of the State! Sir, what does all this suggest? To my mind unhappy days in the future; to my mind anything but justice

for the devoted loyal people and Unionists of that State. And now, Sir, while I make this plea for them, again let me say I present no exclusive claim to represent them; I speak now only because others do not speak; and as in other days when I encountered the opposition of the Senator from Illinois I was often in a small minority, sometimes almost alone, I may be so now; but I have a complete conviction that the course I am now taking will be justified by the future. Sad enough, if it be so! I hope it may be otherwise.

Mr. Drake's amendment was rejected. Another, thereupon offered by Mr. Edmunds, of Vermont, and as subsequently amended, requiring members of the Legislature before taking or resuming their seats, and State officers before entering upon office, to make oath to past loyalty or removal of disabilities, was adopted. Other provisions, against exclusion from civil rights on account of race or color, either by future amendments of the existing State Constitution or by rescinding the State's ratification of any amendment to the National Constitution, were moved as "fundamental conditions" of admission. In an argument, January 14th, maintaining the validity of such conditions, the pending question being on a provision of this character offered by Mr. Drake, Mr. Sumner spoke as follows: —

MR. PRESIDENT, — Something has been said of the term by which this proposition should be designated. One will not call it "compact," finding in this term much danger, but at the same time he refuses to the unhappy people in Virginia now looking to us for protection such safeguard as may be found in this proposition. For myself, Sir, I make no question of terms. Call it one thing or another, it is the same, for it has in it protection. Call it a compact, I accept it. Call it a law, I accept it. Call it a condition, I accept it. It is all three, — condition, law, compact, — and, as all three,

binding. The old law-books speak of a triple cord. Here you have it.

My friend from Wisconsin [Mr. CARPENTER] falls into another mistake, — he will pardon me, if I suggest it, — which I notice with regret. He exalts the technical State above the real State. He knows well what is the technical State, which is found in form, in technicality, in privilege, if you please, — for he has made himself to-night the advocate of privilege. To my mind the State is the people, and its highest office is their just safeguard; and when it is declared that a State hereafter shall not take away the right of any of its people, here is no infringement of anything that belongs to a State. I entreat my friend to bear the distinction in mind. A State can have no right or privilege to do wrong; nor can the denial of this pretension disparage the State, or in any way impair its complete equality with other States. The States have no power except to do justice. Any power beyond this is contrary to the Harmonies of the Universe.

Since the Senator spoke, I sent into the other room for the Declaration of Independence, in order to read a sentence which is beyond question the touchstone of our institutions, to which all the powers of a State must be brought. Here it is: —

"We, therefore, the representatives of the United States of America in general Congress assembled, appealing to the Supreme Judge of the World for the rectitude of our intentions, do, in the name and by the authority of the good people of these Colonies, solemnly publish and declare that these United Colonies are, and of right ought to be, free and independent States."

And then it proceeds to say that —

"They have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do."

Here is the claim, with its limitation, — the great claim, and its great limitation. The claim was Independence; the limitation was Justice.

"Which independent States may of right do": nothing else, nothing which a State may not of right do. Now, Sir, bear in mind, do not forget, that there is not one thing prohibited by these fundamental conditions that a State may of right do. Therefore, Sir, in the name of Right, do I insist that it is binding upon the State. It is binding, even if not there; and it is binding, being there. Its insertion is like notice or proclamation of the perpetual obligation.

MR. CARPENTER. Will the Senator allow me to ask him a question?

MR. SUMNER. Certainly.

MR. CARPENTER. In speaking of a State of this Union, does not the Senator understand the term to apply to the corporation, so to speak, — the Government of the State?

MR. SUMNER. I do not.

MR. CARPENTER. I ask the Senator, then, in what way the State of Virginia got out of the Union, except by destroying the State Government which was a member of the Union? Her territory was always in; her people were always subject to the laws of the United States.

MR. SUMNER. There I agree with the Senator. Her people were always in; her territory was always in.

MR. CARPENTER. But her Government was not.

MR. SUMNER. Not out. Her Government was destroyed.

MR. CARPENTER. Yes, and thereby she ceased to be a member of the Union.

MR. SUMNER. Rather than say that she had ceased to be a member of the Union, I would say that her Government was destroyed. She never was able to take one foot of her soil or one of her people beyond the jurisdiction of the Nation. The people constitute the State in the just sense, and it has been always our duty to protect them, and this I now propose to do.

I return to the point, that what it is proposed to prohibit by these fundamental conditions no State can of right do. Therefore to require that Virginia shall not do these things is no infringement of anything that belongs to a State, for a State can have no such privilege. My friend made himself, I said, the advocate of privilege. He complained, that, if we imposed these conditions, we should impair the "privileges" of a State. No such thing. The State can have no such thing. The Senator would not curtail a State of its fair proportions. When will it be apparent that the license to do wrong is only a barbarism?

Then, again, the Senator says, if this is already forbidden, why repeat the prohibition in the form of a new condition? Why, Sir, my friend is too well read in the history of Liberty and of its struggles to make that inquiry seriously. Does he not remember how in English history Liberty has been won by just such repetitions? It began with Magna Charta, followed shortly afterward by a repetition; then again, in the time of Charles the First, by another repetition; and then again, at the Revolution of 1688, by still another repetition. But did anybody at either of those great epochs say that the repetition was needless, because all contained in Magna Charta? True, it was all there; but the rep-

etition was needed in order to press it home upon the knowledge and the conscience of the people.

MR. CARPENTER. Will the Senator allow me?

MR. SUMNER. Certainly.

MR. CARPENTER. Is not the great distinction in this fact, that England has no written Constitution, — that the Great Charter is a mere Act of Parliament, which may be repealed to-morrow? With us we have a written Constitution; and when its terms and provisions are once clear, do we not weaken, do we not show our lack of faith, that is, our lack of confidence in the value of the provisions, by reënacting it in the form of a statute?

MR. SUMNER. I must say I cannot follow my friend to that conclusion, nor do I see the difference he makes between Magna Charta in England and our Constitution. I believe they are very much alike. And I believe that the time is at hand when another document of our history will stand side by side with the Constitution, and enjoy with it coëqual authority, as it has more than the renown of the Constitution: I mean the Declaration of Independence. This is the first Constitution of our history. It is our first Magna Charta. Nor can any State depart from it; nor can this Nation depart from it. To all the promises and the pledges of that great Declaration are we all pledged, whether as Nation or as State. The Nation, when it bends before them, exalts itself; and when it requires their performance of a State, again exalts itself, and exalts the State also.

So I see it. Full well, Sir, I know that in other days, when Slavery prevailed in this Chamber, there was a different rule of interpretation; but I had thought that our war had changed all that. Sir, to my mind

the greatest victory in that terrible conflict was not at Appomattox: oh, no, by no means! Nor was it in the triumphal march of Sherman: oh, no, by no means! This greatest victory was the establishment of a new rule of interpretation by which the institutions of our country are dedicated forevermore to Human Rights, and the Declaration of Independence is made a living letter instead of a promise. Clearly, unquestionably, beyond all doubt, that, Sir, was the greatest victory of our war, — greater than any found on any field of blood: as a victory of ideas is above any victory of the sword; as the establishment of Human Rights is the end and consummation of government, without which government is hard to bear, if not a sham.

January 17th, the Joint Resolution as amended was laid on the table, and the Senate took up the House bill, which admitted the State to representation clear of all conditions; immediately whereupon Mr. Edmunds moved the proviso concerning the oath to be taken by members of the Legislature and State officers which had been attached to the former measure.

The renewal of this proviso gave rise to renewed and protracted debate, in the course of which, Mr. Sumner, in speeches on the 18th and 19th, in reply to an elaborate defence of Governor Walker by Mr. Stewart against the charges of disloyalty and meditated bad faith, adduced copious extracts from speeches of the Governor and others, together with numerous letters from various parts of the State, all serving to show, as he conceived, that the late election was "one huge, colossal fraud."

Meanwhile Mr. Sumner's colleague, Mr. Wilson, with a view to "a bill in which all could unite," moved the reference of the pending bill to the Committee on the Judiciary, "for the purpose of having the whole question thoroughly examined," — a motion which on the part of the Committee itself was strenuously opposed.

Upon this posture of the case, January 19th, Mr. Morton, of Indiana, remarked, that "there seemed to be an obstinate determination that Virginia must come in according to the bill reported by the Committee or not come in at all," — that "the Senator from Nevada [Mr.

STEWART], with all his zeal and his good intentions, was standing as substantially in the way of the admission of Virginia as the Senator from Massachusetts [Mr. SUMNER]"; and turning to the latter, he said: "It seems that the distinguished Senator from Massachusetts is unwilling that Virginia shall come in now upon any terms; and the Senator has developed more clearly this morning than he has done before what his desire is. It is that there shall be a new election in Virginia. Am I right in regard to that?"

MR. SUMNER. I have not said that.

MR. MORTON. Then what does the Senator's argument mean, that the last election was a monstrous fraud? What is the object in proving that the last election was a monstrous fraud, unless the Senator wants a new election? Let us have an understanding about that.

MR. SUMNER. I wish to purge the Legislature of its Rebels. I understand that three-fourths of the Legislature, if not more, cannot take the test oath. That is what I first propose to do.

After further remarks by Mr. Morton, Mr. Sumner spoke as follows: —

MR. PRESIDENT, — In what the Senator from Indiana has said in reply to the Senator from Nevada I entirely sympathize. I unite with the Senator from Indiana in his amendments. I unite with him in his aspirations for that security in the future which I say is the first great object now of our legislation in matters of Reconstruction. Without security in the future Reconstruction is a failure; and that now should be our first, prime object. But while I unite with the Senator on those points, he will pardon me, if I suggest to him that he has not done me justice in his reference to what I said. And now, Sir, before I comment on his remarks, I ask to have the pending motion read.

THE PRESIDING OFFICER. (Mr. ANTHONY, of Rhode Island, in the chair.) The pending motion is the motion of the Senator from Massachusetts [Mr. WILSON] to refer the bill to the Committee on the Judiciary

MR. SUMNER. So I understood, Sir, and it was to that motion that I spoke. I argued that the bill and all pending questions should be referred to the Committee, — and on what ground? That the election was carried by a colossal fraud. The Senator complains because I did not go further, and say whether I would have a new election or not. The occasion did not require it. I am not in the habit, the Senator knows well, of hesitating in the expression of my opinions; but logically the time had not come for the expression of any opinion on that point. My argument was, that there must be inquiry. To that point the Senate knows well I have directed attention from the beginning of this debate. I have said: "Why speed this matter? Why hurry it to this rash consummation? Why, without inquiry, hand over the loyalists of Virginia, bound hand and foot, as victims?" That is what I have said; and it is no answer for my friend to say that I do not declare whether I would have a new election or not.

When an inquiry has been made, and we know officially and in authentic form the precise facts, I shall be ready to meet all the requirements of the occasion, — so, at least, I trust. My friend, therefore, was premature in his proposition to me. May I remind him of that incident in the history of our profession, when a very learned and eminent chief-justice of England said to a counsellor at the bar, "Do not leap before you come to the stile," — in other words, Do not speak to a point until the point has arisen?[1] The point which the Senator presents to me had not yet arisen; the ques-

[1] "'T is out of time to set it forth in the Declaration; but it should have come in the Replication. 'T is like leaping (as Hale, Chief-Justice, said) before one come to the stile." — *Sir Ralph Bovy's Case:* 1 Ventris, R., 217.

tion was not before the Senate, whether there should be a new election or not. There was no such motion; nor did the occasion require its consideration. My aim was in all simplicity to show the reasons for inquiry. Now it may be, that, when that inquiry is made, it will appear that I am mistaken, — that this election is not the terrible fraud that I believe it, — that the loyal people, black and white, will hereafter be secure in the State of Virginia under the proposed Constitution. It may be that all that will become apparent on the report of your Committee. It is not apparent now. On the contrary, just the opposite is apparent. It is apparent that loyalists will not be secure, that freedmen will suffer unknown peril, unless you now throw over them your protecting arm.

That is my object. I wish to secure safety. I wish to surround all my fellow-citizens in that State with an impenetrable ægis. Is not that an honest desire? Is it not a just aspiration? I know that my friend from Indiana shares it with me; I claim no monopoly of it, but I mention it in order to explain the argument which I have made.

In the course of this debate there has been an iteration of assertion on certain points. I mention two, — one of fact, and the other of law. It has been said that we are pledged to admit Virginia, and this assertion has been repeated in every variety of form; and then it is said that in point of law the test oath is not required. Now to both these assertions, whether of fact or law, I reply, "You are mistaken." The pledge to admit Virginia cannot be shown, and the requirement of the test oath can be shown.

It is strange to see the forgetfulness of great principles into which Senators have been led by partisanship. Certain Senators forget the people, forget the lowly, only to remember Rebels. They forget that our constant duty is to protect our fellow-citizens in Virginia at all hazards. This is our first duty, which cannot be postponed. In the reconstruction of Virginia it must be an ever-present touchstone.

Look at the text of the Reconstruction Acts, or their spirit, and it is the same. By their text the first and commanding duty is, "that peace and good order should be enforced in said States *until loyal and republican State governments can be legally established*"; and until then "any civil governments which may exist therein shall be deemed *provisional* only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same." Such are the duties and powers devolved upon Congress by the very terms of the first Reconstruction Act.[1] The duty is to see that "loyal and republican State governments" be established; and the power is "to abolish, modify, control, or supersede" the provisional governments.

It is not enough to say that Virginia has performed certain things required by the statute. This is not enough. The Senate must be satisfied that her government is loyal and republican. This opens the question of fact. Is Virginia loyal? Is her Legislature loyal? Is the new Government loyal? These questions must be answered. How is the fact? Do not

[1] Act to provide for the more efficient Government of the Rebel States, March 2, 1867, Preamble and Section 6: Statutes at Large, Vol. XIV. pp. 428, 429.

tell me that Virginia has complied with certain formal requirements. Behind all these is the great requirement of Loyalty. Let Senators who insist upon her present swift admission show this loyalty. There is no plighted faith of Congress which can supersede this duty. Disloyalty is like fraud; it vitiates the whole proceeding. Such is the plain meaning of the text in its words.

But if we look at the spirit of the Acts, the conclusion becomes still more irresistible. It is contrary to reason and to common sense to suppose that Congress intended to blind its eyes and tie its hands, so that it could see nothing and do nothing, although the State continued disloyal to the core. And yet this is the argument of Senators who set up the pretension of plighted faith. There is Virginia with a Constitution dabbled in blood, with a Legislature smoking with Rebellion, and with a Governor commending himself to Rebels throughout a long canvass by promising to strike at common schools; and here is Congress blindfold and with hands tied behind the back. Such is the picture. To look at it is enough.

Sir, the case is clear, — too clear for argument. Congress is not blindfold, nor are its hands tied. Congress must see, and it must act. But the loyalty of a State should be like the sun in the heavens, so that all can see it. At present we see nothing but disloyalty.

The next assertion concerns the test oath; and on this point I desire to be precise.

General Canby, the military commander in Virginia, thought that the test oath, or "iron-clad," should be required in the organization of the Virginia Legislature.

This opinion was given after careful examination of the statutes, and was reaffirmed by him at different times. According to him, the test oath must be applied until the Constitution has been approved by Congress; and in one of his letters the commander says, "Its application to the seceded States before they were represented in Congress appears to be the natural result of their political relation to the Union, independent of the requirements of the ninth section of the law of July 19, 1867."[1] To my mind this opinion is unanswerable, and it is reinforced by the reason assigned. Nothing could be more natural than that the test oath, which was expressly required of the Boards of Registration and of other functionaries, should be required of the Legislature, so long as the same was within the power of Congress. The reason for it in one case was equally applicable in the other case; nay, it was stronger, if possible, in the case of the Legislature, inasmuch as the powers of the latter are the most vital. It is this Legislature which is to begin the new State government. Two essential parts of the system depend upon it, — the courts of justice, which are to be reorganized, and the common schools. To my mind it is contrary to reason that the establishment and control of these two great agencies should be committed to a disloyal Legislature, — in other words, to a Legislature that cannot take the test oath. The requirement of this oath is only a natural and reasonable precaution, without harshness or proscription. It is simply for the sake of

[1] Letter to Adjutant-General Townsend, July 10, 1869: Papers relating to the Test Oath: House Miscellaneous Documents, 41st Cong. 2d Sess., No. 8, p. 28. See also Letters of June 16 and 26, 1869, to R. T. Daniel and B. W. Gillis, respectively: Ibid., pp. 24, 15.

security. Therefore is General Canby clearly right on grounds of reason.

Looking at the text of the Reconstruction Acts, the conclusion of reason is confirmed by a positive requirement. By the ninth section of the Act of July 19, 1867,[1] it is provided, —

"That all members of said Boards of Registration, and all persons hereafter elected or appointed to office in said military districts, *under any so-called State or municipal authority*, ... shall be required to take and to subscribe the oath of office prescribed by law for officers of the United States."

Senators find ambiguity in the terms "under any *so-called State* or municipal authority"; but I submit, Sir, that this is because they do not sufficiently regard the whole series of Reconstruction Acts and construe these words in their light. If there be any ambiguity, it is removed by other words, which furnish a precise and unassailable definition of the term "so-called State authority." By the Reconstruction Act of March 2, 1867, it is provided, "that, until the people of said Rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed *provisional only*, and in all respects subject to the paramount authority of the United States."[2] This is clear and precise. Until the people are admitted to representation, the State government is "provisional only," — or, in other words, it is a "so-called State authority." Now the Legislature was elected under "so-called State authority," — that is, under a State constitution which was "provisional only." Therefore, according to the

[1] Statutes at Large, Vol. XV. pp. 14-16. [2] Section 6.

very text of the Reconstruction Acts, one interpreting another, must this test oath be required.

If it be insisted that the Legislature was not elected under "so-called State authority," pray under what authority was it elected? Perhaps it will be said, of the United States. Then surely it would fall under the general requirement of the Act of July 2, 1862,[1] prescribing the test oath to all officers of the United States. But I insist upon this application of the statute only in reply to those who would exclude the Legislature from the requirement of the Reconstruction Act. I cannot doubt that it comes precisely and specifically within this requirement.

This conclusion is enforced by three additional arguments.

1. By a resolution of Congress bearing date February 6, 1869, "respecting the provisional governments of Virginia and Texas,"[2] it is declared "that the persons now holding civil offices in the provisional governments of Virginia and Texas, who cannot take and subscribe the oath prescribed by the Act entitled 'An Act to prescribe an Oath of Office, and for other Purposes,' approved July 2, 1862, shall, on the passage of this Resolution, be removed therefrom." By these plain words is the purpose of Congress manifest. The test oath is prescribed for all persons "holding civil offices in the provisional government of Virginia." But, by requirement in the first Reconstruction Act, the provisional government lasts until the State is admitted to representation.

2. Then comes a well-known rule of interpretation,

[1] Statutes at Large, Vol. XII. pp. 502-3.
[2] Ibid., Vol. XV. p. 344.

requiring that words shall be construed *ut res magis valeat quam pereat*, — in other words, so that the object shall prevail rather than perish. But the very object of the Reconstruction Act on which this question arises was to keep Rebels from the State government. This object is apparent from beginning to end. But this object is defeated by any interpretation disallowing the test oath.

3. Then comes another rule of interpretation, which is of equal obligation. It is, that we are always to incline so as to protect Liberty and Right; and this rule, for double assurance, is embodied in the very text of the statute whose meaning is now under consideration, being the last section, as follows:—

"That all the provisions of this Act, and of the Acts to which this is supplementary, shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out."[1]

Following this rule, we find still another reason for so interpreting the statute as to require the test oath.

Thus by the reason of the case, by the natural signification of the text, by the light furnished from the supplementary statute, by the rule of interpretation that the object must prevail rather than perish, and by that other commanding rule which requires a liberal interpretation favorable to Liberty and Human Rights, — by all these considerations, any one of which alone is enough, while the whole make a combination of irresistible, infinite force, are we bound to require the test oath.

There is one remark of Andrew Johnson, just, wise,

[1] Act of July 19, 1867, Sec. 11: Statutes at Large, Vol. XV. p. 16.

and patriotic, for which I can forget many derelictions of duty, when he said, "For the Rebels back seats." I borrow this language. The time will come when Rebels will be welcome to the full copartnership of government; but this can be only when all are secure in their rights. Until then, "for the Rebels back seats."

January 21st, the long debate terminated with an arraignment by Mr. Trumbull of Mr. Sumner's course in reference not only to the pending bill, but to former measures of Reconstruction, and an answer of similar scope by Mr. Sumner, concluding with regard to Virginia[1] as follows: —

THE next count in the Senator's indictment was, that I had called the late election in Virginia a fraud; and how did he encounter this truthful allegation? He proceeded to show that General Canby designated only five counties in which there were cases of fraud. Is that an answer to my entirely different allegation? Does the Senator misunderstand me, or is it an unintentional change of issue? My statement was entirely different from that which he attributes to me. I made no allegation of frauds in different counties, be they few or many.

I said that the election in the whole State was carried by a conspiracy reaching from one end of the State to the other, of which the candidate for Governor was the head, to obtain the control of the State, and by this means take the loyalists away from the protecting arms of Congress. That was my allegation. Is that met by saying to me that I do not adduce evidence of fraud in districts, or that there were only five districts with re-

[1] For some previous remarks relative to the Reconstruction Act of 1867, see article entitled "Personal Record on Reconstruction with Colored Suffrage," *post*, pp. 304–7.

gard to which we have such evidence? How do I know, that, if you should go into an inquiry, you might not find that very evidence with regard to all the districts? The Senator sets his face against inquiry, as we all know. But I did not intend to open this question. My object was entirely different: it was to show that from beginning to end the whole canvass was a gigantic fraud; that Walker by a fraudulent conspiracy imposed himself upon the State; that by appeals to the Rebels he obtained their votes and thus installed himself in power, with the understanding that when once installed he should administer the State in their interest.

Then, Sir, farewell the equal rights of all! farewell an equal judiciary, which is the Palladium of just government! farewell trial by jury! farewell suffrage for all! farewell that system of public schools which is essential to the welfare of the community! — all sacrificed to this conspiracy. Such, Sir, is my allegation; and it was in making this allegation I challenged reply. I challenge it now. When I first made it, I looked about the Senate, I looked at those who are most strenuous for this sacrifice, and none answered. None can answer. The evidence is before the Senate in the speeches of the Governor and in the election.

Sir, shall I follow the Senator in other things? I hesitate. I began by saying I would not follow him in his personalities. I began by saying that I would meet the counts of his indictment, one by one, precisely on the facts. Have I not done so, turning neither to the right nor to the left? I have no taste for controversy; much rather would I give the little of strength that now remains for me to the direct advocacy of those

great principles to which my life in humble measure has been dedicated, not forgetting any of my other duties as a Senator. If I have in any respect failed, I regret it. Let me say in all simplicity, I have done much less than I wish I had. I have failed often, — oh, how often! — when I wish I had prevailed. No one can regret it more than I. But I have been constant and earnest always. Such, God willing, such I mean to be to the end.

And now, Sir, as I stand before the Senate, trying by a last effort to prevent the sacrifice of Unionists, white and black, in Virginia, I feel that I am discharging only a simple duty. To do less would be wretched failure. I must persevere. This cause I have at heart; this people I long to save; this great State of Virginia I long to secure as a true and loyal State in the National Union. Show that such is her character, and no welcome shall surpass mine.

Mr. Wilson's motion for a reference of the bill having been withdrawn, the Senate proceeded to vote on the various amendments offered. Mr. Edmunds's Proviso was carried by Yeas 45, Nays 16. Other amendments, imposing "fundamental conditions," to secure equality in suffrage, in eligibility to office, and in school rights and privileges, passed by small majorities. A Preamble, moved by Mr. Morton, declaring "good faith" in the framing and adoption of a republican State Constitution and in the ratification of the Fourteenth and Fifteenth Amendments to the National Constitution "a condition precedent to representation of the State in Congress," was adopted by Yeas 39, Nays 20. The bill as thus amended then passed by Yeas 47, Nays 10. Mr. Sumner voted for all the amendments, but did not vote upon the bill itself, — it being his opinion, as shown by his speeches during the debates, that the admission of Virginia at that time, with its legislative and executive departments as then constituted, would endanger the rights and security of her loyal people.

FINANCIAL RECONSTRUCTION AND SPECIE PAYMENTS.

SPEECHES IN THE SENATE, JANUARY 12, 26, FEBRUARY 1, MARCH 2, 10, 11, 1870.

JANUARY 12, 1870, Mr. Sumner, in accordance with previous notice, asked and obtained leave to introduce the following bill : —

A BILL to authorize the refunding and consolidation of the national debt, to extend banking facilities, and to establish specie payments.

SECTION 1. *Be it enacted by the Senate and House of Representatives in Congress assembled,* That, for the purpose of refunding the debt of the United States and reducing the interest thereon, the Secretary of the Treasury be, and he is hereby, authorized to issue, on the credit of the United States, coupon or registered bonds, of such denominations not less than fifty dollars as he may think proper, to an amount not exceeding $500,000,000, redeemable in coin, at the pleasure of the Government, at any time after ten years, and payable in coin at forty years from date, and bearing interest at the rate of five per cent. per annum, payable semiannually in coin; and the bonds thus authorized may be disposed of at the discretion of the Secretary, under such regulations as he shall prescribe, either in the United States or elsewhere, at not less than their par value, for coin; or they may be exchanged for any of the outstanding bonds, of an equal aggregate par value, heretofore issued under the Act of February 25, 1862, and known as the Five-Twenty bonds of 1862, and for no other purpose; and the proceeds of so much thereof as may be disposed of for coin shall be placed in the Treasury, to be used for the redemption of such six per cent. bonds at par as may not be offered in exchange, or to replace such amount of coin as may have been used for that purpose.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized to issue, on the credit of the United States, coupon or registered bonds to the amount of $500,000,000, of such denominations not less than fifty dollars as he may think proper, redeemable in coin, at the pleasure of the Government, at any time after fifteen years, and payable in coin at fifty years from date, and bearing interest not exceeding four and one half per cent. per annum, payable semiannually in coin; and the bonds authorized by this section may be disposed of under

such regulations as the Secretary shall prescribe, in the United States or elsewhere, at not less than par, for coin; or they may be exchanged at par for any of the outstanding obligations of the Government bearing a higher rate of interest; and the proceeds of such bonds as may be sold for coin shall be deposited in the Treasury, to be used for the redemption of such obligations as by the terms of issue may be or may become redeemable or payable, or to replace such coin as may have been used for that purpose.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to issue, on the credit of the United States, from time to time, coupon or registered bonds, of such denominations not less than fifty dollars as he may think proper, to the amount of $500,000,000, redeemable in coin, at the pleasure of the Government, at any time after twenty years, and payable in coin at sixty years from date, and bearing interest at the rate of four per cent. per annum, payable semi-annually in coin; and such bonds may be disposed of at the discretion of the Secretary, either in the United States or elsewhere, at not less than their par value, for coin, or for United States notes, national-bank notes, or fractional currency; or may be exchanged for any of the obligations of the United States, of whatever character, that may be outstanding at the date of the issue of such bonds. And if in the opinion of the Secretary of the Treasury it is thought advisable to issue a larger amount of four per cent. bonds for any of the purposes herein or hereinafter recited than would be otherwise authorized by this section of this Act, such further issues are hereby authorized: *Provided*, That there shall be no increase in the aggregate debt of the United States in consequence of any issues authorized by this Act.

SEC. 4. *And be it further enacted*, That the bonds authorized by this Act shall be exempt from all taxation by or under national, State, or municipal authority. Nor shall there be any tax upon, or abatement from, the interest or income thereof.

SEC. 5. *And be it further enacted*, That the present limit of $300,000,000 as the aggregate amount of issues of circulating notes by national banks be, and the same is hereby, extended, so that the aggregate amount issued and to be issued may amount to, but shall not exceed, $500,000,000; and the additional issue hereby authorized shall be so distributed, if demanded, as to give to each State and Territory its just proportion of the whole amount of circulating notes according to population, subject to all the provisions of law authorizing national banks, in so far as such provisions are not modified by this Act: *Provided*, That for each dollar of additional currency issued under the provisions of this Act there shall be withdrawn and cancelled one dollar of legal-tender issues.

SEC. 6. *And be it further enacted*, That the Secretary of the Treasury shall require the national banks, to whom may be awarded any part or portion of the additional circulating notes authorized by the fifth section of this Act, to deposit, before the delivery thereto of any such notes, with the

Treasurer of the United States, as security for such circulation, registered bonds of the description authorized by the third section of this Act, in the proportion of not less than one hundred dollars of bonds for each and every eighty dollars of notes to be delivered; and the Secretary of the Treasury shall require from existing national banks, in substitution of the bonds already deposited with the Treasurer of the United States as security for their circulating notes, a deposit of registered bonds authorized by the third section of this Act to an amount not less than one hundred dollars of bonds for every eighty dollars of notes that have been or may hereafter be delivered to such banks, exclusive of such amounts as have been cancelled. And if any national bank shall not furnish to the Treasurer of the United States the new bonds, as required by this Act, within three months after having been notified by the Secretary of the Treasury of his readiness to deliver such bonds, it shall be the duty of the Treasurer, so long as such delinquency exists, to retain from the interest, as it may become due and payable, on the bonds belonging to such delinquent banks on deposit with him as security for circulating notes, so much of such interest as shall be in excess of four per cent. per annum on the amount of such bonds, which excess shall be placed to the credit of the sinking fund of the United States; and all claims thereto on the part of such delinquent banks shall cease and determine from that date; and the percentage of currency delivered or to be delivered to any bank shall in no case exceed eighty per cent. of the face value of the bonds deposited with the Treasurer as security therefor.

SEC. 7. *And be it further enacted*, That, whenever the premium on gold shall fall to or within five per cent., it shall be the duty of the Secretary of the Treasury to give public notice that the outstanding United States notes, or other legal-tender issues of the Government, will thereafter be received at par for customs duties; and the interest on the issues known as three per cent. legal-tender certificates shall cease from and after the date of such notice; and all such legal-tender obligations, when so received, shall not again be uttered, but shall forthwith be cancelled and destroyed. And so much of the Act of February 25, 1862, and of all subsequent Acts, as creates or declares any of the issues of the United States, other than coin, a legal tender, be, and the same is hereby, repealed; such repeal to take effect on and after the first day of January, 1871.

SEC. 8. *And be it further enacted*, That all the provisions of existing laws in relation to forms, inscriptions, devices, dies, and paper, and the printing, attestation, sealing, signing, and counterfeiting, as may be applicable, shall apply to the bonds issued under this Act; and a sum not exceeding one per cent. of the amount of bonds issued under this Act is hereby appropriated to pay the expense of preparing and issuing the same and disposing thereof.

SEC. 9. *And be it further enacted*, That all Acts or parts of Acts inconsistent with this Act be, and the same are hereby, repealed.

Mr. Sumner said: —

MR. PRESIDENT,—I have already during this session introduced a bill providing for the extension of the national banking system and the withdrawal of greenbacks in proportion to the new bank-notes issued,[1] thus preparing the way for specie payments. The more I reflect upon this simple proposition, the more I am satisfied of its value. It promises to be as efficacious as it is unquestionably simple. But it does not pretend to deal with the whole financial problem.

The bill which I now introduce is more comprehensive in character. While embodying the original proposition of substituting bank-notes for greenbacks, it provides for the refunding and consolidation of the national debt in such a way as to make it easy to bear, while it brings the existing currency to a par with coin. In making this attempt I am moved by the desire to do something for the business interests of the country, which suffer inconceivably from the derangement of the currency. Whether at home or abroad, it is the same. At home values are uncertain; abroad commerce is disturbed and out of gear. Political Reconstruction is not enough; there must be Financial Reconstruction also. The peace which we covet must enter into our finances; the reconciliation which we long for must embrace the disordered business of the country.

In any measure having this object there are two things which must not be forgotten: first, the preservation of the national credit; and, secondly, the reduction of existing taxation. Happily, there is a universal prevailing sentiment for the national credit, showing itself in a fixed determination that it shall be maintained

[1] See, *ante*, pp. 184-5.

at all hazards. Nobody can exaggerate the value of this determination, which is the corner-stone of Financial Reconstruction. On the reduction of taxation there is at present more difference of opinion; but I cannot doubt that here, too, there will be a speedy harmony. The country is uneasy under the heavy burden. Willingly, gladly, patriotically, it submitted to this burden while the Republic was in peril; but now there is a yearning for relief. War taxes should not be peace taxes; and so long as the present system continues, there is a constant and painful memento of war, while business halts in chains and life bends under the load.

The national credit being safe, relief from the pressure of existing taxation is the first practical object in our finances. But so entirely natural and consistent is this object, that it harmonizes with all other proper objects, especially with the refunding of the national debt, and with specie payments. As the people feel easy in their affairs, they will be ready for the work of Reconstruction. Therefore do I say, as an essential stage in what we all desire, *Down with the taxes!*

The proper reduction of taxation involves two other things: first, the reduction of the present annual interest on the national debt, thus affording immense relief; and, secondly, the spread or extension of the national debt over succeeding generations, for whom, as well as for ourselves, it was incurred. The practical value of the first is apparent on the simple statement. The second may be less apparent, as it opens a question of policy, on both sides of which much has been already said.

Nobody doubts the brilliancy of the movement to pay off the national debt,—calling to mind the charge of the

six hundred at Balaclava riding into the jaws of Death, so that the beholder exclaimed, in memorable words, "It is magnificent, but it is not war."[1] In other words, it was a feat of hardihood and immolation, abnormal, eccentric, and beyond even the terrible requirements of battle. In similar spirit might a beholder, witnessing the present sacrifice of our people in the redemption of a debt so large a part of which justly belongs to posterity, exclaim, "It is magnificent, but it is not business." Unquestionably business requires that we should meet existing obligations according to their letter and spirit; but it does not require payment in advance, nor payment of obligations resting upon others. To do this is magnificent, but beyond the line of business.

President Lincoln, in one of his earliest propositions of Emancipation, before he had determined upon the great Proclamation, contemplated compensation to slave-masters, and, in order to commend this large expenditure, went into an elaborate calculation to show how easy it would be, if proportioned upon the giant shoulders of posterity. Dismissing the idea of payment by the existing generation, he proceeded to exhibit the growing capacity of the country,—how from the beginning there had been a decennial increase in population of 34.60 per cent.,—how during a period of seventy years the ratio had never been two per cent. below or two per cent. above this average, thus attesting the inflexibility of this law of increase. Assuming its continuance, he proceeded to show that in 1870 our population would be 42,323,341,—in 1880 it would be 56,967,216,—in

[1] "C'est magnifique, mais ce n'est pas la guerre."—General Bosquet to Mr. Layard: Kinglake, Invasion of the Crimea, (Edinburgh, 1868,) Vol. IV. p. 369, note.

1890 it would be 76,677,872, — and in 1900 it would be 103,208,415, — while in 1930 it would amount to 251,680,914.[1] Nobody has impeached these estimates. There they stand in that Presidential Message as colossal mile-stones of the Republic.

The increase in material resources is beyond that of population. The most recent calculation, founded on the last census, shows that for the previous decade it was at the rate of eighty per cent.,[2] although other calculations have placed it as high as one hundred and twenty-six per cent.[3] Whether the one or the other, the rate of increase is enormous, and, unless arrested in some way not now foreseen, it must carry our national resources to a fabulous extent. What is a burden now will be scarcely a feather's weight in the early decades of the next century, when a population counted by hundreds of millions will wield resources counted by thousands of millions. On this head details are superfluous. All must see at once the irresistible conclusion.

It is much in this discussion, when we have ascertained how easy it will be for posterity to bear this responsibility. But the case is strengthened, when it is considered that the war was for the life of the Republic, so that throughout all time, so long as the Republic endures, all who enjoy its transcendent citizenship will share the benefits. Should they not contribute to the unparalleled cost? Recent estimates, deemed to be moderate and reasonable, show an aggregate destruction

[1] Annual Message, December 1, 1862.

[2] Report of Special Commissioner of Revenue, December, 1869: Executive Documents, 41st Cong. 2d Sess., H. of R., No. 27, p. XIII.

[3] Statistics of the United States in 1860, Eighth Census, Miscellaneous, pp. 294, 295.

of wealth or diversion of wealth-producing industry in the United States since 1861 approximating nine thousand millions of dollars, being the cost of the war, or, in other words, the cost of the destruction of Slavery.[1] If from this estimate be dropped the item for expenditures and loss of property in the Rebel States, amounting to $2,700,000,000,[2] we shall have $6,300,000,000 as the sum-total of cost to the loyal people, of which the existing national debt represents less than half. Thus, besides precious blood beyond any calculation of arithmetic, the present generation has already contributed immensely to that result in which succeeding generations have a stake even greater than theirs.

Assuming, then, that there is to be no considerable taxation for the immediate payment of the debt, we have one economy. If to this be added another economy from the reduction of the interest, we shall be able to relieve materially all the business interests of the country. Two such economies will be of infinite value to the people, whose riches will be proportionally increased. In the development of wealth, next to making money is saving money.

Bearing these things in mind, Financial Reconstruction is relieved of its difficulties. It only remains to find the proper machinery or process. And here we encounter the propositions of the Secretary of the Treasury in his Annual Report,[3] which are threefold:—

1. To refund twelve hundred millions of six per cent.

[1] Report of Special Commissioner of Revenue, December, 1869: Executive Documents, 41st Cong. 2d Sess., H. of R., No. 27, p. VI.

[2] Ibid.

[3] Executive Documents, 41st Cong. 2d Sess., H. of R., No. 2, pp. XIII–XVIII.

Five-Twenty bonds in four and a half per cent. Fifteen-Twenties, Twenty-Twenty-Fives, and Twenty-Five-Thirties.

2. To make our exports equal in value with our imports, and to restore our commercial marine.

3. To regard these as essential conditions of reduced taxation and specie payments.

Considering these propositions with the best attention I could give to them, I have been impressed by their inadequacy as a system at the present moment. I cannot easily consent to the postponement which they imply. They hand over to the future what I wish to see accomplished at once, and what I cannot doubt with a firm will can be accomplished at an early day. But besides this capital defect, apparent on the face, I find in the system proposed no assurance of success. Will it work? I doubt. Here I wish to be understood as expressing myself with proper caution; and I wish further to declare my anxiety to obtain the substituted loans at the smallest rate of interest, and also my conviction that within a short time, at some slight present cost, this may be accomplished.

Looking at this question in the light of business, I am driven to the conclusion that twelve hundred millions of six per cents. cannot be refunded either now or hereafter in four or four and a half per cents. without offering compensation in an additional running period of the bonds which is not found in the Fifteen-Twenties nor in the Twenty-Five-Thirties proposed by the Secretary. With such bonds there would be a practical difficulty in the way of any such refunding to any considerable amount, from the inability to command a sufficient amount of coin under the "option of coin," which

must accompany the offer; nor is there any fund applicable to the purchase of coin in open market, were such a course desirable. Obviously, to induce the voluntary relinquishment of bonds at a high rate of interest for other bonds at a less rate, the holders must be offered something preferable to the coin tendered as an alternative.

The time has passed when holders can be menaced with payment in greenbacks. Whatever we do must be in coin, or in some bond which will be taken rather than coin. The attempt at too low a rate of interest would cause the coin to be taken rather than the bond, if we had the article at command, — and would end in a deluge of coin, sweeping away the premium on gold. A return to specie payments, thus precipitated, would be of doubtful value, if not illusive, without other and sustaining measures.

In the suggestion that our exports must be augmented, and our commercial marine restored, I sympathize cordially; but I do not see how this can be accomplished so long as the present taxation is maintained, exercising such a depressing influence on all industry, making the necessaries of life dearer, adding to the cost of raw material, and generally enhancing the price of our products so as to prevent them from competing in foreign markets with the products of other nations.

The proposition to make the interest on the new bonds payâble at various points in Europe, at the option of the holder, seems unnecessary, while it is open to objections. Such agencies would be onerous and cumbersome. At London, Paris, Frankfort, and Berlin, there must be a machinery, with constant complications, continuing through the lifetime of the bonds, to

secure the transfers from point to point and the obligatory remittances in gold; nor am I sure that in this way foreign powers might not obtain a certain jurisdiction over our monetary transactions. But I confess that the ruling objection with me is of a different character. New York is our commercial centre, designated by Providence and confirmed by man. Already it has made a great advance, but it is not yet quoted abroad as one of the clearing points of the world. At New York quotations are obtained daily on London and Paris; but in these places no such recognized quotations can be now obtained on New York. That the agencies proposed will tend to postpone this condition is a sufficient objection.

I have made these remarks with hesitation, but in order to prepare the way for the bill which I have introduced. It was my duty to show why the propositions of the Secretary were not sufficient for the occasion, and this I have tried to do simply and frankly. It is long since I avowed my conviction that specie payments should be resumed; and I should now do less than my duty, if I did not at least attempt to show the way which seems to me so natural and easy. While the present system continues, we are poor. The payment of the national debt and the accumulation of coin in the Treasury are the signs of unparalleled national wealth, but our financial condition is not in harmony with these signs. The latest figures from the Treasury are such as no other nation can exhibit. From these it appears that the amount of bonds purchased since March 1, 1869, for the sinking fund was $22,000,000, and the amount purchased subject to Congress $64,000,000, be-

ing in all $86,000,000.[1] The same proportion of purchase for January and February would be $23,000,000, making a sum-total of $109,000,000 for one year. And notwithstanding this outlay, we find in the Treasury, January 1, 1870, in coin no less than $109,159,000, and in currency $12,773,000, making a sum-total of $121,932,000. And yet, with these tokens of national resources manifest to the world, our bonds are below par, and our currency is inconvertible paper. This should not be permitted longer. With all these resources there must be a way, even if we were not taught that a will always finds a way.

The refunding of an existing loan implies two distinct and independent transactions: first, the extinction, by payment in some form, of the existing loan; and, secondly, the negotiation of a new loan to an amount equal to that extinguished.

The bill now before the Senate contemplates the prompt extinguishment of the Five-Twenties of 1862. But I would not have this important work entered upon until the Government is fully prepared to say, that, after a certain period of notice, say six months, in order that distant holders in Europe may be advised, interest on the Five-Twenties of 1862 shall cease, and the bonds be forthwith redeemed in coin. There should be no coercion of any kind upon any holder, at home or abroad, to induce the acceptance of a substitute bond. I am happy to believe, that, with the judicious use of five per

[1] Statement of the Public Debt, January 1, 1870. — Purchases of bonds in excess of the sum required for the sinking fund first appear in the Statement of August 1, 1869, and as then amounting, with the accrued interest, to $15,110,590; thence to January 1, 1870, the monthly average, including interest, was a little short of $10,000,000.

debt cannot be further ameliorated before 1872, when three hundred and seventy-nine millions, being Five-Twenties of 1867, will become redeemable, and then in 1873, when forty-two millions, being Five-Twenties of 1868, and constituting the balance of our optional sixes, will become redeemable, — all of which I gladly believe may be refunded in the four per cents. provided by the present bill, to be followed in 1874 by a reduction of the original Ten-Forties into similar bonds.

I would remark here that the bill undertakes to deal with the whole disposable national debt. The amounts which I have given will be found in the Treasury tables of January 1st, and are irrespective of the sinking fund and invested surplus.

From these details I pass to consider the bill in its aims and principles.

The proposition with which I begin is to refund our six per cent. Five-Twenties of 1862, amounting to upward of five hundred millions, in five per cent. Ten-Forties. In taking the term "Ten-Forties," I adopt the description of a bond well known and popular at home and abroad, whose payment "in coin" is expressly stipulated by the original Act authorizing the issue.[1] The bond begins with a good name, which will commend it. The interest which I propose is larger than I would propose for any late bond. It is important, if not necessary, in order to counteract the suspicion which has been allowed to fall upon our national credit. Even our sixes are now below par in Europe. But they will unquestionably share the elevation of the new fives substituted. Our first attempt should be with the latter.

[1] Act of March 3, 1864: Statutes at Large, Vol. XIII. p. 13.

Let these be carried to par, and we shall have par everywhere.

In this process the first stage is the conviction that all our bonds will be paid in the universal money of the world. All bonds, whether fives or sixes, will then advance. I know no way in which this conviction can be created so promptly and easily as by redeeming in gold some one of our six per cent. loans; and that most naturally selected is the first, which is already so noted from the discussion to which it has been subjected. But this can be done only by offering to holders the option of coin or a satisfactory substitute bond. With a new issue of five per cent. Ten-Forties, limited in amount to about the aggregate of the six per cent. Five-Twenties of 1862, — say five hundred millions, — I cannot doubt that every foreign holder of such sixes will accept the fives in lieu of coin; and so much of that loan as is held at home may be paid in coin, if preferred by the holders, from the proceeds of an equal amount of fives placed in Europe at par for coin.

Then will follow the advantage of this positive policy. The national credit will be beyond question. Nobody will doubt it. The public faith will be vindicated. The time will have come, which is the condition-precedent named by the Secretary of the Treasury, when "the want of faith in the Government" will be removed, and the door will be open to cheap loans. This will be of course: it cannot be otherwise, if we only do our duty. Our fives, being limited in amount, after being taken at par in preference to coin, will advance in value, so that the investment will become popular. People will desire more, but there will be no more; so that, without difficulty or delay, we may hope to refund five

hundred millions of our subsequent sixes, or so much as may be desirable, at four and a half per cent. in Fifteen-Fifties, if not at four per cent. in Twenty-Sixties.

In this operation the *initial point* is the national credit. With this starting-point all is easy. Our fives will at once ascend above par, while a market is opened for four and a half or four per cents. The stigma of Repudiation, whether breathed in doubt or hurled in taunt, will be silenced. There are other fields of glory than in war, and such a triumph will be among the most important in the annals of finance. But to this end there must be no hesitation. The offer must be plain, — "Bonds or coin," — giving the world assurance of our determination. The answer will be as prompt as the offer, — "Bonds, and not coin."

In the process of Financial Reconstruction we cannot forget the National Banks, which have already done so much. The uniform currency which they supply throughout the country commends them to our care. Accustomed to the facilities this currency supplies, it is difficult to understand how business was conducted under the old system, when every bank had its separate currency, taking its color, like the chameleon, from what was about it, so that there were as many currencies, with as many colors, as there were banks.

Two things must be done for the national banks: first, the bonds deposited by them with the Government must be reduced in interest; and, secondly, the system must be extended, so as to supply much-needed facilities, especially at the West and South.

I doubt if the national banks can expect to receive in the future more than four per cent. from the bonds de-

posited by them with the Government; and considering the profits attributed to their business, it may be that there would be a reluctant consent even to this allowance. Here it must be observed, that the whole system of national banks is founded upon the bonds of the nation; so that, at the rate of liquidation now adopted for the national debt, the system will be without support in the lapse of twelve or fifteen years. The stability of the banks, which is so vital alike to the national currency and to the pecuniary interests involved in the business, can be assured only by an issue of bonds for a longer term. Of course, the longer the period, the more valuable the bond. To reduce the interest arbitrarily on the existing short bonds of the banks, without offering compensation in some form, would be positively unjust, besides being an infringement of the guaranties surrounding such bonds, and therefore a violation of good faith. A substitute Twenty-Sixty bond will be assurance of stability for this length of time, while the additional life of the bond will be a compensation for the reduction of interest. As it is not proposed to issue such bonds immediately, except for banking purposes, they will not fall below par, and this par will be coin, which, I need not say, the sixes now held by the banks will not command. If, through the failure or winding-up of any bank, an amount of the substituted bonds should be liberated, there will be an instant demand for them at par by new banks arising to secure the relinquished circulation.

The extension of bank-notes from three to five hundred millions, which I propose, will extend the banking system where it is now needed. This alone is much. How long the Senate debated this question at the last

session, without any practical result, cannot be forgotten. That debate certifies to the necessity of this extension. The proposition I offer shows how it may be accomplished and made especially beneficent. The requirement from all the banks of new four per cent. bonds, at the rate of one hundred dollars for eighty dollars of notes issued and to be issued, would absorb six hundred and twenty-five millions of the national debt into four per cents., while the withdrawal of one dollar of greenbacks for each additional dollar of notes will go far to extinguish the outstanding greenbacks, thus quietly, and without any appreciable contraction, removing an impediment to specie payments. Naturally, as by a process of gestation, will this birth be accomplished: it will come, and nobody can prevent it.

In presenting this series of measures, I am penetrated by the conviction, that, if adopted, they cannot fail to bring all the national obligations to a par with coin, and then specie payments will be resumed without effort. Our bonds will be among the most popular in the market. No longer below par, they will continue to advance, while the national credit lifts its head unimpeached, unimpeachable. Under this influence the remainder of our outstanding debt may be refunded in Fifteen-Fifties at four and a half per cent., if not in Twenty-Sixties at four per cent. There will then be sixteen hundred and twenty-five millions refunded at an average of less than four and a half per cent., and the whole debt, including the irredeemable sixes of 1881, at an average of less than five per cent., while all will be within our control five years earlier than in

the maximum period proposed by the Secretary of the Treasury.

One immediate consequence of these measures would be the relief of the people from eighty to one hundred millions of taxation, while there would remain a surplus revenue of two millions a month applicable to the reduction of the debt, being more than enough to liquidate the whole prior to the maturity of the new obligations, if it were thought advisable to complete the liquidation at so early a day. The country will breathe freer, business will be more elastic, life will be easier, as the assurance goes forth that no heavy taxation shall be continued in order to pay the debt in eleven years, as is now proposed, nor in fifteen years, nor in twenty years. By the present measures, while retaining the privilege of paying the debt within twenty years, we shall secure the alternative of sixty years, and at a largely reduced interest, — leaving the opportunity of paying it at any intermediate time, according to the best advantage of the country. With diminished taxation and resources increasing immeasurably, the national debt will cease to be a burden, — becoming "fine by degrees and beautifully less" until it gradually ceases to exist.

In making this statement, I offer my contribution to the settlement of a great question. If I am wrong, what I have said will soon be forgotten. Meanwhile I ask for it your candid attention, adding one further remark, with which I shall close. I never have doubted, I cannot doubt, the ease with which the transition to specie payments may be accomplished, especially as compared with the ominous fears which this simple proposition

seems to excite in certain quarters. We are gravely warned against it as a period of crisis. I do not believe there will be anything to which this term can be reasonably applied. Like every measure of essential justice, it will at once harmonize with the life of the community, and people will be astonished at the long postponement of an act so truly beneficent in all its influences, so important to the national character, and so congenial with the business interests of the country.

The bill was ordered to be printed, and referred to the Committee on Finance.

January 25th, a bill from the Committee on Finance, "to provide a national currency of coin notes and to equalize the distribution of circulating notes," being under consideration, Mr. Sumner moved an amendment embracing the provisions of his bill, with the exception of the first, second, and seventh sections, as a substitute, — in support of which he the next day spoke as follows: —

MR. PRESIDENT, — Some things seem to be admitted in this debate as starting-points, — at least if I may judge from the remarks of the Senator from Ohio [Mr. SHERMAN]. One of these is the unequal distribution of the bank-note currency, and another is that to take from the Northern and Eastern banks circulation already awarded to them would disturb trade. I venture to add, that the remedy would be worse than the disease.

The Senator from Wisconsin [Mr. HOWE] and the Senator from Kentucky [Mr. DAVIS] justly claim for the West and South a fair proportion of bank circulation. The Senator from Indiana [Mr. MORTON] demands more. While neither asks for expansion, neither is ready for contraction. The last-named Senator argues, that at this time the currency is not too much

for the area of country and the amount of business, which, from the new spaces opened to settlement and the increase of commerce, require facilities beyond those that are adequate in thickly settled and wealthy communities. His premises may be in the main sound; but he might have made a further application of them. If, in the absence of local banks and banking facilities, a larger amount of circulation is needed,— and I do not mean to question this assertion, — would it not follow that the establishment of such local banks and banking facilities, with new bank credits, checks of depositors, and other agencies of exchange, and with the increase of circulation, would more than counterbalance any slight contraction from the withdrawal of greenbacks, and that thus we should be tending toward specie payments?

The Senator from Kentucky said aptly, that, if we wait until all are ready, we shall never resume. If the Senator from Indiana is right in saying that prices have already settled down in the expectation of an early resumption, then to my mind the battle is half won and we have only to proceed always in the right direction.

A simple redistribution of the existing currency cannot be made without serious consequences to the business of the country, while it will do nothing to correct the evils of our present financial condition. It will do nothing for Financial Reconstruction, nor will these consequences be confined to any geographical section. They will affect the South and West as well as the North and East. I need only add that disturbance in New York means disturbance everywhere in our country.

Nor is it easy to see how any redistribution can be made, which, however just to-day, may not be unjust

to-morrow. As business develops and population extends there will be new demand, with new inequalities and new disturbances.

The original Banking Act[1] authorized a circulation of $300,000,000, a large part of which went to the Northern and Eastern States. All this was very natural; for at that time there was no demand at the South, and comparatively little at the West. With the supply of capital at the East banks were promptly formed, even before the State banks were permitted to come into the new system. Subsequently the State banks were not only permitted to come into the new system, but their circulation was taxed out of existence. Here, then, was banking capital idle. It was reasonable that the circulation which was not demanded in other parts of the country should be allotted to these banks. This I state in simple justice to these banks. I might remind you also of the patriotic service rendered by the banks of New York, Boston, and Philadelphia, which in 1861 furnished the means by which our forces were organized against the Rebellion. One hundred and fifty millions in gold were furnished by these banks, of which less than fifty millions were subsequently subscribed by the people;[2] and this was at a moment when the national securities had received a terrible shock. Not from the South, not from the West, did financial succor come at that time.

In considering briefly the questions presented by the pending measure I shall take them in their order. They

[1] Act of February 25, 1863: Statutes at Large, Vol. XII. pp. 665-82.

[2] Report of the Secretary of the Treasury, December 9, 1861: Executive Documents, 37th Cong. 2d Sess., Senate, No. 2.

are two: first, to enlarge the national bank currency; and, secondly, to create a system of free banking founded on coin notes. This leaves out of view the question of refunding and consolidating the national debt; nor does it touch the great question of specie payments.

I begin with the proposed enlargement of the currency. The object is excellent, as is admitted by all; but the practical question arises on the way it shall be done.

If you look at the bill now before the Senate, you will see that it authorizes an enlargement to the extent of $45,000,000, and the withdrawal to that amount of what are called three per cent. temporary loan certificates, of which little more than this amount exists. The extinction of this debt will accomplish an annual saving of about $1,366,000. So far, so good. This amount of $45,000,000 is allotted to banks organized in States and Territories having less than their proportion under the general Banking Act. This is right, and it removes to a certain extent objections successfully urged at the last session of Congress against a measure for the redistribution of currency.

But, plainly and obviously, the measure of relief proposed is not sufficient to meet the just demands of the South and West; nor is it sufficient to prevent taking from the North and East a portion of the currency now enjoyed by them. Therefore in one part of the country it will be inadequate, while in another it is unjust. Inadequacy and injustice are bad recommendations.

When a complete remedy is in our power, why propose a partial remedy? When a just remedy is in our power, why propose an unjust remedy? There is another question. I would ask also, Why unnecessarily

disturb existing and well-settled channels of trade? — for such must be the effect of a new apportionment, as proposed, under the census of this year. Why not at once provide another source from which to draw the new supplies under the new apportionment? I open this subject with these inquiries, which to my mind answer themselves.

The proposition of the Committee is further embarrassed by the provision for the cancellation each month of the three per cent. certificates to an amount equal to the aggregate of new notes issued during the previous month. In order to judge the expediency of this measure we must understand the origin and character of these certificates.

The Secretary of the Treasury, desiring to avoid the further issue of greenbacks, conceived the idea of a note which could be used in the payment of Government obligations, but in such form as not to enter into and inflate the currency. This resulted in an interest-bearing note payable three years after date, with six per cent. interest compounded every six months and payable at the maturity of the note in its redemption. This anomalous note was made legal-tender for its face value only.[1] It was not doubted that such notes, on the accumulation of interest, would be withdrawn as an investment. Being legal-tender, if they were allowed to be used by the banks as part of their reserves, they would become, contrary to the original purpose, part of the national circulation, while the Government would be paying interest on bank reserves, which no bank could demand. But the *ipse dixit* of the Secretary could not prevent their

[1] Acts of March 3, 1863, § 2, and June 30, 1864, § 2: Statutes at Large, Vols. XII. p. 710, XIII. p. 218.

use by the banks as part of the reserves. The intervention of Congress was required, which, by the second section of the Loan Act of June 30, 1864, provided as follows:—

"Nor shall any Treasury note bearing interest, issued under this Act, be a legal tender in payment or redemption of any notes issued by any bank, banking association, or banker, calculated or intended to circulate as money."[1]

From this statement it seems clear that neither the Secretary originating these compound-interest legal-tender notes, nor the Act of Congress authorizing them, nor the banks receiving them, contemplated their employment as part of the bank reserves. How they reached this condition remains to be told.

The whole issue of the compound-interest legal-tender notes amounted to upward of two hundred and seventeen millions.[2] These were funded at or before maturity, except some fifty millions, which as they matured were exchanged for certificates to that amount bearing three per cent. interest, and constituted part of the bank reserves.[3] Here was an innovation as improvident as new, being nothing less than bank reserves on interest. This improvidence was increased by the manner of distribution, which, instead of being ratable, seems to have been according to the rule of "Who speaks first?" Of course the banks within easy access of Washington had peculiar opportunities, by which they were enabled to secure these notes, and thus obtain interest on part of their reserves, while banks at a distance, and especially

[1] Statutes at Large, Vol. XIII. p. 219.

[2] Report of the Secretary of the Treasury, December 6, 1869: Executive Documents, 41st Cong. 2d Sess., H. of R., No. 2, p. XXVII.

[3] Ibid., p. XVIII.

in the country, were not equal in opportunity. Besides its partiality, this provision operates like a gratuity to the banks having these notes.

Obviously these three per cent. certificates ought to be withdrawn; but I do not like to see their withdrawal conditioned on the extension of banking facilities. Their case is peculiar, and they should be treated accordingly. Nor should their accidental amount be made the measure of banking facilities. They constitute a part of the national debt, and should be considered in the refunding and consolidation of this debt, and not on a bill to provide banking facilities.

I think I do not err, if I conclude that the first part of the pending measure is inadequate, while the cancellation of the three per cent. certificates in the manner proposed is inexpedient. All this is more observable when it is considered that there is another way, ample and natural.

From the first part of the pending measure I pass to the second part, being sections three, four, and five, which, if I am not mistaken, authorize free banking, with coin notes as a declared basis of coin. This is plausible, but to my mind illusory and impracticable. The machine will not work; but if it does work, its first and most obvious operation will be to create a new currency, adding a third to the greenbacks and bank-notes already existing, besides creating a new class of banks. Here I put the practical question, Can any national bank issue and maintain a circulation of coin notes with a reserve of only twenty-five per cent., so long as gold commands a premium? How long would the reserve last? It is easy to see that until specie

payments this idea is impracticable. It will not work. In proportion to the premium on gold would be the run on the banks, until their outstanding notes were redeemed or their vaults emptied.

But the measure is not only impracticable, — it is inexpedient, as multiplying, instead of simplifying, the forms of currency. We have now two paper currencies, distinct in form and with different attributes. Everybody feels that this is unfortunate; and yet it is now proposed to add another. Surely it is the dictate of wisdom, instead of creating a third paper currency, to disembarrass the country of one of those now existing and make the other convertible into coin, so that we may hereafter enjoy one uniform currency. I confess my constant desire for measures to withdraw our greenbacks and to make our present bank-notes coin notes. Coin notes should be universal. Under any circumstances the conclusion is irresistible, that the proposed plan, if not utterly impracticable, is a too partial and timid experiment, calculated to exercise very little influence over the great question of specie payments.

If I am right in this review, the bill of the Committee does not deserve our support. But I do not confine myself to criticism. I offer a substitute. Could I have my way, I would treat the whole financial question as a unit, providing at the same time for all the points involved in what I have called Financial Reconstruction. This I have attempted in the bill which I have already introduced. But on the present occasion I content myself with a substitute for the present measure. The amendment of which I have given notice has the twofold object of the pending bill: first, to enlarge the cur-

rency; and, secondly, to change the existing banking system, so as to provide practically for free banking and to enlarge banking facilities.

If you will look at my amendment, you will see that it enlarges the limit of bank-notes from $300,000,000 to $500,000,000. This is practically a provision for free banking, at least for some years. Practically it leaves the volume of currency to be regulated by legitimate demand, with a proviso for the withdrawal of legal-tender notes to an amount equal to the new issues. The amendment then proceeds to provide bonds to be deposited with the Government as the basis of the new banks. And here is a just and much-needed economy, — just to the Government, and not unjust to the banks. It is proposed for the future to allow but four per cent. interest on the bonds deposited by the banks. Thus far the banks have enjoyed large benefits, and in part at the expense of the Government. Under the operation of my amendment these profits would be slightly reduced, but not unduly, while the Treasury would receive an annual benefit of not far from six million dollars in coin. In this respect the proposition harmonizes with the idea, which is constantly present to my mind, of diminishing our taxes.

Sir, in the remarks submitted by me on a former occasion I ventured to say that the first great duty of Congress was to mitigate the burdens now pressing upon the energies of the people and upon the business of the country, and, as one means of accomplishing this important result, to extend these burdens, in a diminishing annual ratio, over a large population entering upon the enjoyment of the blessings which the present generation

at such enormous cost has assured to the Republic.[1] Upon the assumption that the national revenues and the national expenditures would continue relatively the same as now, a sum extending from eighty to one hundred millions would be the measure of relief that might be accorded at once, without arresting the continuous reduction of the debt at the rate of $2,000,000 a month.

In proposing this large reduction of taxation at this time, with the hope of larger reductions in the near future, it was necessary to keep in view the possibility of increased expenditure or of decreased receipts. To guard against such contingency we must keep strict watch over the expenditures, and, if possible, diminish the positive annual obligations of the nation. And here the mind is naturally and irresistibly attracted to the prodigious item of interest. Cannot this be reduced at an early day by a large amount, and then subsequently, though contingently, by a much larger amount? And should not this result be one of our first endeavors? Is it not the first considerable stage in the reduction of taxation?

The credit of the country is injured by two causes: first, the refusal to redeem past-due obligations, being so much *failed paper*, which condition must necessarily continue so long as we deliberately sanction an inconvertible currency; and, secondly, the menace of Repudiation, with slurs upon the integrity of the people uttered in important quarters. These two causes are impediments to the national credit. How long shall they continue? Loyally and emphatically has Congress declared that all the obligations of the nation shall

[1] Speech, January 12, 1870: *Ante*, pp. 238, seqq.

be paid according to their spirit as well as letter. But this is not enough. More must be done. And here Congress must act, not partially, nor timidly, nor in the interests of the few only, but impartially, comprehensively, firmly, and in the interests of the many. It must help the recognized ability of the nation by removing its disabilities.

Nearly five years have now passed since the Rebellion sheathed its sword. But the national expenditures did not cease at once when the sword no longer plied its bloody work. They still continued, sometimes under existing contracts which could not be broken, sometimes in guarding the transition from war to peace. Meanwhile the national faith was preserved, while the people carried the unexampled burden willingly, if not cheerfully. The large unliquidated debt, the *débris* of the war, has been paid off or reduced to a form satisfactory to the creditor, and the world has been assured that the people are ready for any sacrifices according to the exigency. Is more necessary? Should these sacrifices be continued when the exigency has ceased?

These sacrifices are twofold, being direct and indirect. The direct are measured by the known amount of taxation. The indirect are also traced to existing taxation, and their witnesses are crippled trade, unsettled values, oppressive prices, and an inconvertible currency, which of itself is a constant sacrifice. Therefore do I say again, *Down with the taxes!*

Bills relating to taxation do not originate in the Senate; but Senators are not shut out from expressing themselves freely on the proper policy which is demanded at this time. On the finances and the banks the Senate has the same powers as the other House.

Here it may take the initiative, as is shown by the present bill. But what it does should be equal to the occasion; it should be large, and not petty, — far-reaching, and not restricted in its sphere. The present bill, I fear, has none of these qualities which we desire at this time. It is a patch or plaster only, when we need a comprehensive cure.

To my mind it is easy to see what must be done. The country must be relieved from its heavy burdens. Taxation must be made lighter, — also less complex and inquisitorial. Simplification will be a form of relief. Our banking system is ready to adapt itself to the wants of the country, if you will only say the word. Speak, Sir, and it will do what you desire. But instead of this we are asked by the Committee to begin by making the system more complex, without adding to its efficiency; we are asked to construct a third currency, which so long as it continues must be a stumbling-block; we are asked to establish discord instead of concord.

Now, Sir, in order to bring the Senate to a precise vote on what I regard as the fundamental proposition of my amendment, I shall withdraw the amendment as a whole, and move to strike out the first two sections of the Committee's bill, and to insert as a substitute what I send to the Chair.

The proposed substitute, being Section 5 of Mr. Sumner's bill, having been read, he continued: —

On that proposition I have one word to say. It is brief: that you will admit. It is simple: that you will admit. It enlarges the existing national bank circulation by $200,000,000: that is ample, as I believe you

will admit. Practically it is a system of free banking: that is, it is such until the enlarged circulation is absorbed, — that is, for some time to come. But free banking is what, as I understand, Senators desire.

Then, again, it has in it no element of injustice. There is no injustice to the North or to the East. All parts of the country are equally accommodated and equally protected. But this cannot be said of the pending measure.

Then, again, it is elastic, adapting itself everywhere to the exigencies of the place. If banking facilities are needed, and the capital is ready, under that amendment they can be enjoyed. Unlike the proposition of the Committee, it is not of cast-iron, but is so as to adapt itself to all the conditions of business in every part of the country.

Then, again, in the final provision, that for every bank-note issued a greenback shall be withdrawn, you find the great highway to specie payments. All your greenbacks will speedily be withdrawn. You will have then only the bank-notes, making one paper currency; and then speedily, within a brief period, you will have specie payments. The banks must have their reserves; there will be no greenbacks for them; they must find them in specie. The banks, then, and every stockholder, will find a motive to press for specie payments, and you will have that great result quietly accomplished, absolutely without shock, while the business interests of the country will rejoice.

February 1st, in further advocacy of this amendment, Mr. Sumner said: —

MR. PRESIDENT, — As it is understood that the Senate is to vote to-day on the bill and all pending propositions, I seize this moment to say a last word for the proposition which I have had the honor of moving, and which is now pending. But before I proceed with the discussion, allow me to say, that, while sitting at my desk here, I have received expressions of opinion from different parts of the country, one or two of which I will read. For instance, here is a telegraphic dispatch from a leading financial gentleman in Chicago: —

"Your views on Currency Question much approved here. Authorize new bank circulation to extent named, retiring greenbacks *pari passu*."

This is the very rule which I seek to establish.

At the same time I received a communication from Circleville, Ohio, dated January 25th, the first sentences of which I will read: —

"Please pardon me for this intrusion. I desire to ask, if you are willing to indicate, what will likely be the result of your financial bill. I think I only utter the sentiment of three fourths of all the commercial men through our great and growing West, when I say it should become a law, and thereby secure to us our equal share of the national banking capital, which we now need so much."

This, again, is what I seek to accomplish.

At this stage, I hope I may have the indulgence of the Senate, if I ask one moment's attention to the bill of the Committee. On a former occasion I ventured to say that it was inadequate.[1] The more I reflect upon

[1] *Ante*, p. 256.

it, the longer this debate is continued, the more I am impressed with its inadequacy. It does not do what should be done by the first measure of legislation on our finances adopted by the present Congress. It is incomplete. I wish I could stop there; but I am obliged to go further, and say that it is not only incomplete, but it is, in certainly one of its features, to which I shall call attention, mischievous. I take advantage of this moment to present this point, because it has not been mentioned before, and because at a later stage I may not have the opportunity of doing so. It is this provision at the end of the first section: —

"But a new apportionment shall be made as soon as practicable, based upon the census of 1870."

At the proper time I shall move to strike out these words, and I will now very briefly assign my reasons.

The proposition is objectionable, first, because it is mischievous, — and, secondly, because it is difficult, if not impracticable, in its operation; and if I can have the attention of the Senate, unless figures deceive me, and unless facts are at fault, I think that the Senate must agree in my conclusion.

We are told by the Comptroller of the Currency that $45,000,000 is a large allowance of currency at this moment for the South and West; indeed, I believe he puts the limit at $40,000,000. Now suppose only $40,000,000 are taken up during the coming year, — that is, till the completion of the census; that would leave $5,000,000 still outstanding, which might be employed for the benefit of the South and West. That circumstance indicates to a certain extent the financial condition of those parts of the country. Do they need

larger facilities, and, if so, to what extent? Can you determine in advance? I doubt it. But, Sir, in the face of this uncertainty, this bill steps in and declares positively that "a new apportionment shall be made as soon as practicable, based upon the census of 1870." What will be the effect of such a new apportionment? Even according to the census of 1860, such new apportionment would transfer some sixty million dollars from banks that enjoy it to other parts of the country; it would take away from those banks what they want, and transfer it where it is not wanted. The language is imperative. But, Sir, it is not to be under the census of 1860, but under the census of 1870; and unless figures deceive, by that census the empire of the great West will be more than ever manifest. And if the transfer is made accordingly, it will take some ninety or one hundred million dollars from where it now is, and is needed, and carry it to other places where certainly it will not be needed in the same degree. What will be the effect of such a transfer?

Mark, Sir, the statute is mandatory and unconditional. There is no chance for discretion; it is to be done; the transfer is to be made. And now what must be the consequence? A derangement of business which it is difficult to imagine, a contraction of currency instantaneous and spasmodic to the amount of these large sums that I have indicated.

I do not shrink from contraction. I am ready to say to the people of Massachusetts, "If the Senate will adopt any policy of contraction that is healthy, well-considered, and with proper conditions, I would recommend its acceptance." But a contraction like that proposed by this bill, which arbitrarily takes from North

and East this vast amount, and transfers it to another part of the country, where it may not be needed, such a contraction I oppose as mischievous. I see no good in it. I see a disturbance of all the channels of business; and I see a contraction which must be itself infinitely detrimental to the financial interests of the Republic.

But then, Sir, have you considered whether you can do it? Is it practicable? I have shown that it is mischievous: is it practicable? Can you take this large amount of currency from one part of the country and transfer it to another? Have you ever reflected upon the history of the bank-note after it has commenced its travels, when it has once left the maternal bank? It goes you know not where. I have been informed by bank-officers, and by those most familiar with such things, that a bank-note, when once issued, very rarely returns home. I have been assured that it is hardly ever seen again. The banks, indeed, may go into liquidation, but their notes are still current. The maternal bank may be mouldering in the earth; but these its children are moving about, performing the work of circulation. Why? The credit of the nation is behind them; and everybody knows, when he takes one of them, that he is safe. Therefore, I ask, how can the proposed requirement be carried into execution? how can you bring back these runaways, when once in circulation on their perpetual travels?

There is but one way, and that is by the return to specie payments. Hold up before them coin, and they will all come running back to the original bank; but until then they will continue abroad. The proposed requirement seems to go on the idea that bank-notes, like

cows, return from pasture at night; whereas we all know, that, until specie payments, they are more like the wild cattle of the prairies and the pampas; you cannot find them; they are everywhere. Surely I am not wrong, when I suggest that the proposed requirement is impracticable as well as mischievous; and at the proper time I shall move to strike it out.

The amendment which I have moved has been under discussion for several days. It has had the valuable support of the Senator from Michigan [Mr. CHANDLER], who brings to financial questions practical experience. It has been opposed by other Senators, and with considerable ardor by my excellent friend from Indiana [Mr. MORTON].

On Thursday last, the Senator from Indiana, addressing himself to me, and inviting a reply, which I was then prevented from making, took issue with me directly upon the position I have assumed, that the withdrawal of legal-tender notes would materially assist the effort for specie payments; and he further declared that the two currencies of bank-notes and United States notes were kept together because one was redeemable with the other. I do not quote his precise words, but I give the substance.[1]

Under the policy we are now pursuing, it seems to me, that, with $356,000,000 of legal-tender notes in circulation, the Government will not for many years, if ever again, pay specie. With that amount of United States notes, under the actual policy, the bank currency will forever remain inconvertible. And the correct-

[1] Speech, January 17, 1870: Congressional Globe, 41st Cong. 2d Sess., p. 817.

ness of these positions I will endeavor briefly to demonstrate.

A convertible currency is nothing more nor less than the servant of coin. If there is no coin, it can neither be servant nor representative, though it may attempt to perform the functions of coin. Presenting itself under false pretences, it but partially succeeds in this attempt; and the discredit attaching to it compels it to pay more for any property than would be the price of such property in coin, or the acknowledged representative of coin, — just as doubtful people must submit to ten, fifteen, or twenty per cent. discount, when what is known as "gilt-edged" commercial paper is discounted at five, six, or seven per cent. Thus far we have had no coin in the Treasury appropriated to the stability of the United States notes, — and under our present policy, dictated by the restrictive laws that hedge the Secretary of the Treasury and confine his liberty of action, we never shall have, until the whole bonded debt of the country is extinguished, — while at the same time the banks are excused under the law from all attempts to fortify their notes with coin.

And what is it that successfully discourages us from direct steps toward specie payments?

In the first place, it is the mistrust of the people in our ability to resume, and to maintain resumption. In the next place, the monthly publication of the Treasury discloses precisely our weakness as well as our strength; and the great element of our weakness is the volume of our past-due and demand obligations. In ordinary times, — that is, when the people have confidence in the ability of the banks to redeem their demand obligations in coin, — a reserve of twenty to twenty-five per cent.

in coin is more than sufficient to meet any probable demand that may be made. Let mistrust arise in relation to the solvency of any bank or of the system of banks, and the reserve of twenty-five per cent. will vanish as the dew before the sun, and the individual bank or all the banks must close their doors to all demands for specie.

In our present legislation we encounter this mistrust wide-spread among the people; and so long as we ourselves exhibit so great timidity in our attempts at legislation upon this subject, just so long do we minister to and strengthen this mistrust.

The amount of demand obligations which the Treasury must be prepared to meet upon a moment's notice, including three per cent. certificates and fractional currency, is more than four hundred and forty million dollars. With the existing mistrust, measured by the premium on gold, a reserve of twenty-five per cent. of coin in the Treasury appropriated to these demands would be totally insufficient. This reserve must bear a proportion to the aggregate of liabilities so large as to remove mistrust, and this can be accomplished only by presenting as in the vaults of the Treasury an amount of coin nearly equal to the sum of liabilities.

If during the last three years we had retained the surplus of coin that has reached the Treasury, we should now have enough; but, as a consequence of such accumulation, speculation would have run riot, — and I fear, if we should now by legislative enactment decree that course for the future, we should aggravate the situation.

What, then, is left for us to do? What but to lessen our liabilities? — which, as the laws now stand, must

remain the same to-morrow as to-day, and one, two, or five years hence immutably as now.

Difficulties beset the contraction of those liabilities, as there are difficulties that impede the accumulation of coin in sufficient amount to meet our purpose; but the former may be neutralized, if not removed, by judicious compensations that will not in any serious degree retard the object for which I would legislate.

Sound financial authorities unite in declaring, that, if the Government resumes specie payments, the banks of New York can resume; and when the banks of New York resume, the whole country can resume. Evidently, then, our care is the Government.

And what is the first step? To my mind we must lessen the demand obligations of the Government, while the Secretary of the Treasury at the same time strengthens the reserves in the national vaults. Neither should be done suddenly or violently, but gradually, judiciously, and wisely. As the statutes now stand, the obligations cannot be reduced. With the present volume of obligations, the laws of trade prevent the Secretary of the Treasury from sufficiently strengthening his reserves. It therefore devolves upon the National Legislature to take the initiative in the effort to resume specie payments.

The difficulties that impede the reduction of the national liabilities lie in the fact that such obligations are a part, and a large part, of the currency of the country. To withdraw that currency without giving a substitute is to create stringency, burden trade, and invite chaos: at least, so it seems. These obligations, so far as they relate to the currency, are larger in amount than those of the national banks combined; and furthermore, they

are the head and front of all. They are so large as to be beyond the point of manageability, and I would therefore reduce them within control. It is their volume that puts them beyond control, and it is our want of control that causes them to be depreciated. Thus, Sir, I would offer inducements to fund them, or part of them, in bonds that would be sought after because of their valuable uses beyond a mere investment, and to neutralize the evils of contraction of Treasury liabilities by authorizing their assumption, with the consent of the people, by various parties in different sections of the country, each one of whom would be fully equal to the task thus voluntarily assumed. I would issue a bank-note for every dollar of Treasury obligation cancelled; but I would issue no bank-note that did not absorb an equal obligation of the Treasury. By this distribution of a portion of the demand obligations you restore to the Government the full ability to meet the remainder; and at the same time the people know, that, so far as the currency goes, — and it is of this only we are treating, — every promise of any bank has its ultimate recourse in the Treasury of the United States.

The absorption of one hundred and fifty or two hundred millions cannot fail to enhance the remaining legal-tender nearly, if not quite, to par with gold. The volume of currency in the channels of trade and in the hands of the people will be about the same as now. The aggregate of United States notes and national bank-notes outstanding will be precisely the same. Therefore the indirect contraction so much dwelt upon will scarcely be felt. The volume of greenbacks will be ample for the reserves of the banks, and their growing scarcity will cause them to become more and more valuable;

and as they approach the standard of gold, so will they sustain with golden support the bank-notes into which they are convertible.

The demand by the people for legal-tender will not be appreciably increased, as the bank-note is receivable by the Government for all dues except customs, and those demands are necessarily localized. While the growing scarcity of greenbacks, because of their replacement by bank-notes fulfilling all the requirements of general trade, will not be noticed by the people, the banks will take heed lest they fall, and at an early day begin to strengthen themselves. Legal-tender reserves they must have, and, with the honest eyes of our Secretary of the Treasury to detect any deficiency, they will begin their strengthening policy at once. Instead of putting gold received as interest forthwith on the market for sale, they will put it snugly away in their vaults. The gold which comes to them in the course of banking operations will be added thereto; and almost imperceptibly the country banks will arrive at the condition of the city banks, whose reserves in coin and legal-tender notes are now far beyond the requirements of law. In the mean time, and without derangement of business, the Treasury may strengthen its reserve, — while, on the other hand, the quiet reduction of its liabilities advances the percentage of the reserve to the whole amount of liabilities in almost a compound ratio. With this strengthening of the condition of the Treasury, made manifest to all the world by its monthly publications, the mistrust of the people will be gradually, but surely, dissipated, and as surely be replaced by confidence that all demand obligations will be redeemed at an early day, — a confidence as wide-spread and deep-seated as

is that now prevailing in relation to our bonded debt, that it will be paid according to the spirit as well as the letter of the law.

It will thus be seen that just in proportion to the strengthening of the legal-tender do we strengthen the bank-note. Strike out of existence in a single day the legal-tender notes, and I fear that the bank-note would for a time fall in comparative value: so would everything else. But I advocate no such violent measure.

The Senator from Indiana in his remarks appeared to forget that we have in the country two or three hundred millions of another legal-tender, — being coin, now displaced, of which no legitimate use is made in connection with the currency, — that should resume its proper position in the paper circulation of the country. Here are two or three hundred millions of money, now by force of law demonetized, which I would have relieved of its disabilities. I would change the relation of master it now occupies to that of servant, where it properly belongs; and I would inflate the currency with it to the extent that we possess it. Inflation by coin is simply specie payment, or very near it.

I have endeavored, Mr. President, thus briefly to respond to the questions propounded to me. I do not know that I have entered sufficiently into detail to explain clearly my convictions as to the necessity for reducing the volume of legal-tender obligations, and to prove, as I desire to prove, that their gradual withdrawal will enhance not only the value of the remainder, but also the value of the bank-note. Both will ascend in the scale. This enhancement of the whole paper currency will tend to draw the coin of the country from its

seclusion. As in the early period of the war, before the present currency was created, we were astonished at the positive, but hidden, money resources of the people, so will the outflow of hidden coin confound the calculations of those who suppose that its volume is to be measured by the amount in the Treasury and in the New York banks.

Mr. President, I am not alone in asking for the reformation of our currency as the first stage of our financial efforts. I read from the "Commercial and Financial Chronicle"[1] of New York, an authoritative paper on this subject, as follows: —

"In any practical scheme to improve the Government finances and credit, or to restore prosperous activities, or both at once, the first thing to be done *must be* the restoration of a sound currency. That done or provided for, all the rest will be easy; the best credit and the lowest rates of interest will follow."

To this end our greenbacks must be absorbed or paid, and my proposition provides a way. As the greenbacks are withdrawn, coin will reappear to take their place in the banks and the business of the country. This will be specie payments.

Here I wish to remark that I fail to see the asserted dependence of our demand notes on our bonds. The bonds may be at par without bringing the notes to par, and so the notes may be at par without bringing the bonds to par. According to the experience of other countries, bonds and notes do not materially affect each other. The two travel on parallel lines without touch-

[1] January 22, 1870.

ing. Each must be provided for; and my present purpose is to provide for the demand notes.

There is strong reason why this is the very moment for this effort. According to statistical tables now before me, our exports are tending to an equality with our imports. During the five months of July, August, September, October, and November, 1869, there has been a nominal balance in our favor of $1,752,416; whereas during the same months of last year there was an adverse balance of $32,163,339. The movement of specie is equally advantageous. During the five months above mentioned there has been an import in specie of $10,056,316 against $5,273,116 during the same months last year, and an export in specie of $19,031,875 against $21,599,758 during the same months last year.[1] According to these indubitable figures, the tide of specie as well as of business is beginning to turn. It remains for us by wise legislation to take advantage of the propitious moment. Take the proper steps and you will have specie payments, — having which, all the rest will follow. Because I desire to secure this great boon for my country I now make this effort.

The amendment was rejected.

March 2d, Mr. Sumner's bill having been reported back from the Committee on Finance with an amendment in the nature of a substitute, he spoke in review of their respective provisions as follows: —

MR. PRESIDENT, — The measure now before the Senate concerns interests vast in amount and influence. I doubt if ever before any nation has attempted to deal at once with so large a mass of financial obligations, being

[1] Monthly Reports on the Commerce and Navigation of the United States for the Fiscal Year ending June 30, 1870, p. 200.

nothing less than the whole national debt of the United States. But beyond the proper disposition of this mass is the question of taxation, and also of the extent to which the payment of the national debt shall be assumed by the present generation, and beyond all is the question of specie payments. On all these heads my own conclusions are fixed. The mass of financial obligations should be promptly adjusted in some new form at smaller interest; taxes must be reduced; the payment of the national debt must be left in part to posterity; specie payments must be provided for.

The immediate question before the Senate is on a substitute reported by the Committee for the bill which I had the honor of introducing some weeks ago. Considering my connection with this measure, I hope that I shall not intrude too much, if I recur to the original bill and explain its provisions.

There are certain general objects which must not be forgotten in our present endeavor. I have already said that the taxes must be reduced. Here I am happy to observe that the popular branch of Congress, in the exercise of its constitutional prerogative, has taken the initiative and is perfecting measures to this end. I trust that they will proceed prudently, but boldly.

In harmony with this effort the expenditures of the Government should be revised and cut down to the lowest point consistent with efficiency. Economy will be an important ally. Even in small affairs it will be the witness to our purposes. Through these agencies our currency will be improved, and we shall be brought to specie payments, while the national credit will be established. Not at once can all this be accomplished, but I am sure that we may now do much.

As often as I return to this subject I am impressed by the damage the country has already suffered through menacing propositions affecting the national credit. I cannot doubt that in this way the national burdens have been sensibly increased. By counter-propositions in the name of Congress we have attempted to counteract these injurious influences. We have met words with words. But this is not enough.

There is another remark which I wish to make, although I do little more than repeat what I said on another occasion.[1] It is that a national debt, when once funded, does not seem to affect largely the condition of the currency. The value of the former is maintained or depressed by circumstances independent of the currency. But, on the other hand, the condition of the currency bears directly upon all efforts for increased loans; and this is of practical importance on the present occasion. The rules of business are the same for the nation as for an individual; nor can a nation, when it becomes a borrower, hope to escape the scrutiny which is applied to an individual under similar circumstances. Applying this scrutiny to our case, it appears that on our existing bonded debt we have thus far performed all existing obligations, — not without discussion, I regret to add, that has left in some quarters a lingering doubt with regard to the future, and not without an opposition still alive, if not formidable. But the case is worse with regard to that other branch of the national debt known as legal-tenders, where we daily fail to perform existing obligations, so that these notes are nothing more than so much *failed paper*. With regard to this branch of the national debt there is an open confession of insolvency,

[1] Speech, February 1, 1870: *Ante*, p. 277.

and each day renews the confession. Now, by the immutable laws of credit, which all legislative enactments are impotent to counteract or expunge, the nation must suffer when it enters the market as a borrower. Failing to pay these obligations already due, it must pay more for what it borrows. Nor can we hope for more than partial success, until this dishonor is removed.

With these preliminary remarks, which are rather hints than arguments, I come directly to the measure before the Senate; and here I begin with the first section.

I wish the Senate would note the difference between this section in my bill and in the substitute of the Committee. I proposed to authorize the issue of $500,000,000 of Ten-Forty five per cents., and prescribe the use to which the proceeds of such bonds should be applied. The Committee propose $400,000,000 of Ten-Twenty five per cents., and leave the application of the proceeds the subject of discretion. Between the two propositions there are several differences: first, in the amount; secondly, in the length of the bond; and, thirdly, in the application of the proceeds.

Here I beg to observe that the original sum of $500,000,000 was not inserted by accident, or because it was a round and euphonious sum. Nothing of the kind. It was the result of a careful examination of the national debt in its details, especially in the light of the national credit. It was adopted because it was the very sum required by the nature of the case. At least so it seemed to me. A brief explanation will show if I was not right.

The year 1862, which marks the date of our legal-

tenders, marks also the date of a new system in regard to our loans. Senators are hardly aware of this change. Previously our standard for sixes was an immutable loan for twenty years. By the new system this immutability was continued as to the right of demand by the bondholder, but the right of payment was reserved to the nation at any time after five years. This change, as we now see, gave positive advantages to the nation. Its disadvantages to the bondholder were so apparent that it encountered resistance, which was overcome only after undaunted perseverance and final appeal to the people. Now, by recurring to the schedule of the national debt, you will find that the first loan within the sphere of this discretionary system is the Five-Twenties of 1862, which, on the 1st of February last, after deducting the purchased bonds, were $500,000,000. This, therefore, is the first loan falling within our discretion, the first loan we are privileged to pay before maturity, and the first loan presenting itself for payment. In these incidents the loan of 1862 has precedence, — it stands first.

But there is a reason, which to my mind is of peculiar force, why this first loan should be paid in coin at the earliest possible day. It seems to me that I do not deceive myself, when I consider it conclusive on this question. The loan of 1862 is the specific loan which has been made the objective point of all the movements under the banner of Repudiation. It is the loan to which this idea first attached itself. It is the loan first menaced. Therefore, to my mind, it is the loan which should be first provided for. I know no way, short of universal specie payments, by which the national credit can be so effectually advanced.

Why in the amendment of the Committee the amount of the proposed issue is placed at $400,000,000 I am at a loss to conceive. Here is no equivalent of any one loan, nor of two or more loans. It is an accidental sum, and might have been more or less for the same reason that it is what it is. The term Ten-Twenties seems also accidental, as it is unquestionably new. Of course it is assumed that the amount proposed of Ten-Twenties at five per cent. will absorb an equal amount of Five-Twenties at six per cent., irrespective of any particular loan; but I am at a loss to see on what grounds the holders of the sixes can be induced to make the exchange. Will the substitute bonds be considered of equal value? I affirm not. But assuming that they are acceptable, how shall they be acceptably distributed? Shall the first comer be first served? If all were at the same starting-point, the palm might be justly bestowed upon the most swift. In the latitude allowed, stretching over all the Five-Twenties, there would be opportunity for favoritism; and with this opportunity there would be temptation and suspicion.

The change from a Ten-Forty bond to a Ten-Twenty bond, as proposed by the Committee, is a change, so far as I can perceive, made up of disadvantages. To the nation there is the same rate of interest, and there is the same fixed period during which this interest must be paid; while, on the other hand, the period of optional payment is reduced from thirty years to ten years. If there be advantage in this reduction, I do not perceive it. If at the expiration of ten years we are in a condition to pay, we may do so as readily under a Ten-Forty as under the Ten-Twenty proposed. If during the subsequent ten years of option our advancing credit

enables us to command a lower rate of interest, surely we may do so just as favorably under one as under the other. There is no benefit within the bounds of imagination, so far at least as I can discern, which will not redound to the nation from Ten-Forties as much as from Ten-Twenties. On the other hand, it is within possibilities, from disturbance in the money markets of the world, or from other unforeseen circumstances, that it may not be convenient during the short optional period of the Committee to obtain the necessary coin without a sacrifice. The greater latitude of payment leaves the nation master of the situation, to pay or not to pay, as is most for the national advantage.

Furthermore, the loan proposed by the Committee has not, to my mind, the elements of success promised by the other loan. It is assumed in both cases that the coin for the redemption of the existing obligations shall be obtained in Europe. Then we must look to the European market in determining the form of the new loan. Now I have reason to believe that a coin loan to the amount of $500,000,000 may be obtained in Europe on Ten-Forties at par, provided the new bonds are of the same form and purport as the Ten-Forties which are already so popular, and provided further that the proceeds of the loan are applied to the payment in coin at par of the Five-Twenties of 1862. The reasons are obvious. The Ten-Forties have a good name, which is much to start with. It is like the credit or good-will of an established mercantile house, which stands often instead of capital; and then the fact that the proceeds are to be absorbed in the redemption of the first Five-Twenties, so often assailed, will most signally attest the determination of the country to maintain its cred-

it. These advantages cost nothing, and it is difficult to see why they should be renounced.

We must not make an effort and fail. Our course must be guided by such prudence that success will be at least reasonably certain. For the nation to offer a loan and be refused in the market will not do. Here, as elsewhere, we must organize victory. Now it is to my mind doubtful, according to the information within my reach, if the loan proposed by the Committee can be negotiated successfully at par. Bankers there may be who would gladly see themselves announced as financial agents of the great Republic; but it remains to be seen if there are any competent to handle a loan of $500,000,000 who would undertake it on the terms of the Committee. I am clear that it is not prudent to make the experiment, when it is easy to offer another loan with positive advantages sufficient to turn the scale. Washington, in his Farewell Address, said, "Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground?" In the same spirit I would say, Why forego the advantages of a well-known and peculiar security? Why quit our Ten-Forties to stand upon a security which is unknown, and practically foreign, whether at home or abroad?

In the loan proposed by the original bill we find assurance of success, with the promise of reduced taxation, Repudiation silenced, and the coin reserves in the banks strengthened by sales in Europe, it may be, $150,000,000. Should the amendment of the Committee prevail, I see small chance of any near accomplishment of these objects, and meanwhile our financial question is handed over to prolonged uncertainty.

I pass now to the substitute of the Committee for the second and third sections of the original bill. Here again the amount is changed from $500,000,000 to $400,000,000. I am not aware of any reason for this change; nor is there, indeed, any peculiar reason, as in the case of the Five-Twenties of 1862, for the amount of $500,000,000. The question between the two amounts may properly be determined by considerations of expediency, among which will be that of uniformity with outstanding loans. A more important change is in the time the bonds are to run, which is Fifteen-Thirty years for the bonds at four and a half per cent., and Twenty-Forty years for the bonds at four per cent. Here occurs again the argument with regard to the inferiority of Ten-Twenties, as compared with Ten-Forties. By the same reason the Fifteen-Thirties will be inferior to the Fifteen-Fifties, and the Twenty-Forties will be inferior to the Twenty-Sixties, of the original bill.

The prolongation of the bond is in the nature of compensation for the reduction of interest. Already we have established the ratio of compensation for such reduction, — already for a loan at six per cent. we have offered Five-Twenties, but for a loan at five per cent. we have offered Ten-Forties, — and I see no reason why by a tentative process we should so materially change this standard as is now proposed. The experiment can do no good, while it may do harm. It is in the nature of a restriction on our discretion, and a limitation of the duration of the bond, which, I apprehend, must interfere essentially with its marketable character. While the prolongation of time enlarges the option of the nation, it increases the value of the bond in the market.

That which is most favorable to the nation is most favorable to the market value of the bond; and that which is unfavorable to the nation is unfavorable also to the market value of the bond, rendering its negotiation and sale more difficult and protracted. Thus at every turn are we brought back to the original proposition.

Against this conclusion is the argument founded on the idea of English consols. It is sometimes said, If the short term of Five-Twenty years is the standard for a six per cent. bond with a graduation to Twenty-Sixty for a four per cent. bond, why may we not go further, and establish consols at three per cent., running, if you please, to eternity?—The technical term "consols" is an abbreviation for the consolidated debt of Great Britain, and in the eyes of a British subject has its own signification. It means a debt never to be paid, or at least it is an inscribed debt carrying no promise of payment. I would not have any debt of the United States assume either the form or name of consols. I would rigidly adhere to definite periods of payment. This is the American system, in contradistinction to the British system. I would not only avoid the idea that our debt is permanent, but I would adhere to the form of positive payment at some fixed period, and keep this idea always present in the minds of the people. Without the requirement of law, I doubt if the debt would be paid. Political parties would court popularity by a reduction of taxation. The Treasury of the United States, like the British Treasury, would always be without a surplus, and the national debt would be recognized as a burden to be endured forever. Therefore do I say, *No consols.*

There is another consideration, having a wide influence, but especially important at the West and South, which should induce us to press for a reduction of the interest on our bonds; and here I present an argument which, if not advanced before, is none the less applicable.

Do Senators consider to what extent the Government determines the rates of interest in the money centres of the country? Not only for itself does it determine, but for others also. Government bonds enjoy preëminence as an investment, — and if the interest is high, they attract the disposable money of the country. Government sixes are worth more than a six per cent. bond of any private corporation or individual, no matter how well secured. Therefore, it is easy to see, so long as we retain our standard at six per cent., so long as we have sixes, will the capital of the country seek these bonds for investment, permanent or temporary, to the detriment of numerous enterprises important to the national development, which are driven to be the stipendiaries of foreign capital. Railroads, especially at the West and South, are sufferers, being sometimes delayed by the difficulty of borrowing money, and sometimes becoming bankrupt from ruinous rates of interest, always in competition with the Government. But what is true of railroads is also true of other enterprises, which are pinched, and even killed, by these exactions in which the Government plays such a part. All are familiar with the recurring appeals for money on bonds even at eight per cent., which is more than can be paid permanently without loss; and even at such a ruinous rate there is difficulty in obtaining the required amount.

Doubtless the excessive interest now demanded is

partly due to our fictitious currency, where *failed* paper is forced upon the market; but beyond this influence is that of our sixes, absorbing disposable capital. I venture to assert, that, if we could at an early day reduce these sixes to fives, there are millions which would be released to seek investment in other securities at six per cent., especially to the relief of the West and South. The reduction of interest to four and a half per cent. and four per cent. would release further millions. A recent incident in the financial history of Massachusetts illustrates the disturbing influence of our sixes. An attempt to obtain a loan in Europe at five per cent. was unsuccessful, chiefly because the National Government offered six per cent.

Therefore, for the sake of public enterprise in its manifold forms, for the sake of that prosperity which depends on human industry, for the sake of manufactures, for the sake of commerce, and especially for the sake of railroads, by which all these are quickened, we must do what we can to reduce the general rate of interest, which is now such a curb on enterprise; and here we must begin with our own bonds. Without any adverse intention, the National Government is a victorious competitor, and the defeated parties are those very enterprises whose success is so important to the country. A competition so destructive should cease. Keeping this before us in the new loan, we shall adopt that form of bond by which the interest will most surely be reduced. Thus, while refunding the national debt, we shall open the way to improvements of all kinds.

This is what I have to say for the present on the refunding propositions of the Committee. Their object is

the same as mine. If I differ from them in details, it is because after careful consideration it seems to me that in some particulars their system may be improved.

Proceeding from these pivotal propositions, I find other things where I must again differ. When I first addressed the Senate on this subject, I took occasion to declare my objection to the idea of agencies or offices in the commercial centres of Europe, where interest should be paid. I am not ready to withdraw that objection, — though, if I could be tempted, it would be by the Senator from Ohio [Mr. SHERMAN], when he held up the prospect of a common money among nations. This is one of the desires of my heart, as it is one of the necessities of civilization; but I fail to see how this aspiration will be promoted by the system proposed, — which must be judged on its own merits, without any such recommendation. It is easy to see that such a system, besides being the beginning of a new policy on the part of the Government, may entail serious embarrassments. Sub-treasuries must be created in foreign capitals, which must be continued so long as the bonds last. Remittances of coin must be semiannual; and should such remittances fail at any time, there must be advances at no little cost to the Government. I cannot imagine any advantage from this new system sufficient to induce us to encounter the possible embarrassments or entanglements which it may cause.

I would not take too much of the time of the Senate, and therefore I pass at once to the proposition of the Committee, being section seven, providing for the very early payment of the national debt.

Mr. President, the payment of the national debt is an American idea, and I would say nothing to weaken it among the people. Whatever we owe must be paid; but it is the part of prudence to make the payment in such way as, while consistent with our obligations, shall promote the national prosperity. In this spirit I approach the proposition of the Committee, in which there is so much of good, only to examine and measure it, in order to ascertain its probable influence, especially on the question of Taxation.

Here it must be borne in mind, that the present measure in all its parts, so far as applicable, and especially with its guaranties and pledges, must be taken as the basis of our new engagements. The provision that so much of the debt shall be paid annually will become in a certain sense a part of the contract, although not so expressed in the bond. Not less than $150,000,000 are set apart annually to be applied "to the payment of the interest and to the reduction of the principal of the public debt." This is a large sum, and we should consider carefully if such a guaranty or pledge has in it the promise of financial stability. Promising too much is sometimes as bad as promising too little. Our promise must be according to our means prudently employed.

If we assume obligations so large as to bear heavily upon the business of the country and to compel unreasonable taxation, there will be little chance of financial stability. They will become the object of attack, and will enter into the conflict of parties, — and if repealed, the national faith may be called in question. I need not say that business must suffer. A less ambitious effort on our part will be less obnoxious to attack, —

thus leaving the bonds to their natural position in the money market, and strengthening all the movements of commerce.

In order to determine the operation of this provision we must look into details. I have the estimates before me, showing our present and prospective liabilities for interest; but I content myself with presenting compendiously the result, in order to determine the question of taxation. Suffice it to say, that under the operation of the present measure there will be in 1871, after the payment of all liabilities for interest, a surplus of $43,000,000 to be applied to the payment of the national debt. With each succeeding year the reduction of interest will rapidly increase this surplus; and when we bring into operation other provisions of the bill, and convert $500,000,000 of sixes into a like amount of four and a half per cents., effecting a further saving of interest, equal to $7,500,000 annually, the surplus revenue, as compared with necessary expenditures, will in a brief period approach $100,000,000 annually.

Here the question arises, Is not this unnecessarily large? Is it not beyond the bounds of prudence and wise economy? Shall we declare in this fundamental measure a determination to redeem the whole national debt within a period of twenty-five years? Can the industries of the country sustain such taxation? I put the question. You shall answer it. The future has its great claims upon us; so also has the present. I submit that the pending measure sacrifices the present. I conclude, therefore, as I began, with another appeal for reduced taxation. At the proper time I shall move an amendment, in order to aid this result.

In the course of the proceedings which followed, the bill of the Committee underwent important amendments, in accordance with the views expressed by Mr. Sumner, — for the Ten-Twenties and Fifteen-Thirties therein proposed, a prolongation to Ten-Forties and Fifteen-Forties being effected, — and the provision for the payment of interest at the money-centres and in the moneys of Europe stricken out. Some of its more objectionable features being thus removed, he gave it a qualified support.

March 10th, the question being on striking out a provision in the bill of the Committee requiring the national banks to exchange the bonds of the United States deposited by them as security for their circulation for those bearing a lower rate of interest, Mr. Sumner said: —

MR. PRESIDENT, — There is a word which has been introduced into this debate with which we were all very familiar in another relation some years ago. It is the word *Coercion*. A President of the United States announced in most formal phrase that we could not coerce a State; and now, borrowing a phrase from Mr. Buchanan, we are told we cannot coerce a national bank. Well, Sir, is the phrase applicable? If it be applicable, then I insist that we can coerce a national bank; but I do not admit its applicability. What I insist on has already been so ably and clearly stated by the Chairman of the Committee [MR. SHERMAN] that perhaps I need not add another word. I do not like to occupy your time; yet I cannot forbear reminding you, Sir, of the plenary power which Congress has reserved over the banking system in that very Act by which it was established.[1]

The Senator from California [MR. CASSERLY] has read to you the clause. We have been reminded to-day by

[1] "That Congress reserves the right, at any time, to amend, alter, or repeal this Act." — *Act to provide a National Currency, &c.*, February 25, 1863, Sec. 65: Statutes at Large, Vol. XII. pp. 665-82.

a Senator on this floor that these are formal words, words that often appear in statutes. But are they not significant words? Have they not a meaning? Why are they there? Because they have a meaning; because they reserve to Congress what I call plenary power over the whole system. That system may be readjusted, modified, shaped anew, and the banks cannot complain. They began their existence under that law; they knew the conditions of their being; and they cannot now murmur, if Congress chooses to exercise the prerogative which it reserved at the very inception of the whole system.

Sir, I approach this question, therefore, with the conviction that the whole matter is open to our discretion. Nobody can say safely that what is now proposed is not within the power of Congress. Congress may do it, if the occasion justifies, if in its discretion it thinks best to do it. It may do it, if it thinks that the financial policy of this country will be thereby promoted. The banks are all parties to that policy. May not the country turn around and ask the banks to do their part in this great work of renovation? To a certain extent the banks are in partnership with the Government. May not the Government insist that they shall do their part on this great occasion? Shall this effort of ours to readjust our finances and to save this large interest to our country be thwarted by a pretension on the part of the banks that we have not the power to interfere?

But we are reminded that there is a difference between power and right. How often, Sir, on other occasions, have I so insisted in this Chamber! A great, broad, vital distinction there always is between power and right. A nation or an individual may have a pow-

er without right. Now is there not here a right as well as a power? I cannot doubt it. I cannot doubt that Congress may rightfully exercise what I cannot doubt is an existing power. Why should it not? It could exercise it — who can doubt? — with reference to the public interests, to promote the national credit. It will not exercise it in any spirit of wantonness, in any spirit of injustice, — but to promote the national credit. Is not that a rightful object? No one will say the contrary. Why, then, shall we hesitate?

We are reminded that these banks have secured certain privileges, and it is said often that those are vested, and the old phrase "vested rights" has been repeated. But how can they have vested rights under a statute which contains the provision just read to us, securing to Congress full power to change it in every respect? What, then, is the simple aspect of this question? It is that certain securities have been lodged with the Government by these banks on which they transact their business, and now in readjusting the national debt it is deemed advisable and for the public interests that the securities should be at a lower rate of interest than when they were originally deposited. Is it not right for Congress to require that? I cannot see the wrong in it. I cannot see any doubt on the question. To my mind it is clear; it is absolutely within the province of Congress, in the exercise of the discretion which it originally retained over this whole subject.

I hope, therefore, that in this debate we shall not be pressed too much with the suggestion that we cannot coerce these banks. If the occasion requires, and if the term be applicable, then do I say we may coerce these

banks to the extent of obliging them to take these securities at a reduced rate of interest. I find no Repudiation in that. I find nothing wrong in that. I find nothing in it but a simple measure in harmony with this great process of Financial Reconstruction in which we are now engaged. I call it Financial Reconstruction; and in this work ought not the banks to take their place and perform their part?

Now, Sir, I have a criticism on this section. It does not go far enough. The Committee propose that the banks shall take one third of the three different kinds of bonds, the five, the four and a half, and the four per cents. I think they ought to be required to take all in fours, and I propose to give the Senate an opportunity of expressing its judgment on that proposition. I may be voted down; perhaps I shall be; but I shall make a motion, in the honest endeavor to render this bill a practical measure, which can best succeed. I wish to mature it; I wish to put it in the best shape possible; and for the sake of the banks, and in the interest of the banks, I wish such a measure as shall have a reasonable chance of stability in the future. If you allow the banks gains that are too large, there will necessarily be a constant opposition, growing and developing as their gains become more conspicuous. Why expose the system to any such criticism? Let us now revise it carefully, place it on sure, but moderate foundations, so that it will have in itself the elements of future stability.

To my mind that is the more politic course, and I am sure it is not unjust. You and I, Mr. President, remember very well what was done on another occasion. The State banks were taxed out of existence. It was the

cry, "Tax them out of existence! do not let them live! drive them from competition with these new children of ours, the national banks!" It was done. Was not that coercion? If the phrase is to be employed, there was an occasion for it. But I am not aware that it was argued, certainly it was with no great confidence argued, that to do that was unjust. It was a measure of policy wisely adopted at the time, and which we all now see has answered well. But if we could tax the State banks out of existence, can we not, under the very specific terms of the Act of Congress to which these national banks owe their existence, apply a rule not unlike to them? We do not propose to tax them out of existence, but we propose to require that they shall lodge with the Government securities at a lower rate of interest.

Something has been said, perhaps much, in this debate, with regard to the burden that this will impose upon the banks. The Senator from Ohio [Mr. SHERMAN] has already answered that objection, and I do not know that I can add to his answer; and yet I am not aware that he reminded the Senate that in this very bill there is a new and important provision in favor of the banks, or in favor of all bondholders, — being an exemption from all taxation, not only State and municipal, but national.

There is but one other remark I will make, and that is, we all know, unless I am much deceived, that the banks have during these last years made great profits. I am told that the profits of the national banks are two or three times greater than those of the old State banks, which we did not hesitate to tax out of existence. Now is not that a fact in this case? Is it not an essential element? Should it not be taken into consideration on

this occasion? If these national banks are the recipients of such large profits, should we not exercise all the power that belongs to us to compel them to their full contribution to this great measure of Financial Reconstruction? I cannot hesitate in my conclusion.

March 11th, Mr. Sumner moved the addition of a section providing for the resumption of specie payments, — being the seventh section of the original bill, — remarking: —

MR. PRESIDENT, — Interested as I am in this bill, desirous of its passage hardly less than the Senator from Ohio, I am bound to say, that, in my judgment, the passage of this single section would be worth more than the whole bill. It would do more for the credit of the country; it would do more for its business. It would help us all to the completion of Financial Reconstruction. How often have I insisted that all our efforts to fund and refund are to a certain extent vain and impotent, unless we begin by specie payments! That, Sir, is the Alpha of this whole subject; and until Congress is ready to begin with that, I fear that all the rest will be of little avail. It is in the light of expedient rather than of remedy. There is the remedy.

The proposition was negatived, — Congress not being yet ready for this step.

MAJOR-GENERAL NATHANAEL GREENE, OF THE REVOLUTION.

SPEECH IN THE SENATE, ON THE PRESENTATION OF HIS STATUE, JANUARY 20, 1870.

IN the Senate, January 20, 1870, Senator Anthony announced the presentation by Rhode Island of a statue of Major-General Nathanael Greene, of the Revolution, executed by the sculptor Brown, to be placed in the old Hall of the House of Representatives. Mr. Sumner moved its acceptance by the following Concurrent Resolution: —

A RESOLUTION accepting the Statue of Major-General Greene.

Resolved by the Senate, the House of Representatives concurring, That the thanks of this Congress be presented to the Governor, and through him to the people, of the State of Rhode Island and Providence Plantations, for the statue of Major-General Greene, whose name is so honorably identified with our Revolutionary history; that this work of art is accepted in the name of the nation, and assigned a place in the old Hall of the House of Representatives, already set aside by Act of Congress for the statues of eminent citizens; and that a copy of this Resolution, signed by the President of the Senate and the Speaker of the House of Representatives, be transmitted to the Governor of the State of Rhode Island and Providence Plantations.

On this he spoke as follows: —

MR. PRESIDENT, — How brief is life! how long is art! Nathanael Greene died at the age of forty-four, and now Congress receives his marble statue, destined to endure until this Capitol crumbles to dust. But art lends its longevity only to lives extended by deeds. Therefore is the present an attestation of the fame that has been won.

Beyond his own deserts, Greene was fortunate during life in the praise of Washington, who wrote of "the singular abilities which that officer possesses,"[1] — and then again fortunate after death in the praise of Hamilton, whose remarkable tribute is no ordinary record.[2] He has been fortunate since in his biographer, whose work promises to be classical in our literature.[3] And now he is fortunate again in a statue, which, while taking an honorable place in American art, is the first to be received in our Pantheon. Such are the honors of patriot service.

Among the generals of the Revolution Greene was next after Washington. His campaign at the South showed military genius of no common order. He saved the South. Had he lived to take part in the National Government, his character and judgment must have secured for him an eminent post of service. Unlike his two great associates, Washington and Hamilton, his life was confined to war; but the capacities he manifested in command gave assurance that he would have excelled in civil life. His resources in the field would have been the same in the council chamber.

Of Quaker extraction, Greene was originally a Quaker. The Quaker became a soldier and commander of armies. Such was the requirement of the epoch. Should a soldier and commander of armies in our day accept ideas which enter into the life of the Quaker, the change would only be in harmony with those principles which must soon prevail, ordaining peace and good-will among

[1] Letter to Lieutenant-Colonel John Laurens, February 18, 1782: Writings, ed. Sparks, Vol. VIII. p. 241.

[2] Eulogy on Major-General Greene, before the Society of the Cincinnati, July 4, 1789: Works, ed. J. C. Hamilton, Vol. II. pp. 480–95.

[3] Life, by G. W. Greene, 3 vols. 8vo, New York, 1867–71.

men. Looking at his statue, with military coat and with sword in hand, I seem to see his early garb beneath. The Quaker general could never have been other than the friend of peace.

Standing always in that beautiful Hall, the statue will be a perpetual, though silent orator. The marble will speak; nor is it difficult to divine the lesson it must teach. He lived for his country, and his whole country, — nothing less. Born in the North, he died in the South, which he had made his home. The grateful South honored him as the North had already done. His life exhibits the beauty and the reward of patriotism. How can his marble speak except for country in all its parts and at all points of the compass? It was for the whole country that he drew his sword of "ice-brook temper." So also for the whole country was the sword drawn in these latter days. And yet there was a difference between the two occasions easy to state.

Our country's cause for which Greene contended was National Independence. Our country's cause recently triumphant in bloodiest war was Liberty and Equality, the declared heritage of all mankind. The first war was for separation from the mother country, according to the terms of the Declaration, "That these United Colonies are and of right ought to be Free and Independent States," — the object being elevated by the great principles announced. The second war was for the establishment of these great principles, without which republican government is a name and nothing more. But both were for country. The larger masses, with the larger scale of military operations, in the latter may eclipse the earlier; and it is impossible not to see that a war for Liberty and Equality, making the promises of

the Declaration a reality, and giving to mankind an irresistible example, is loftier in character than a war for separation. If hereafter Greene finds rivals near his statue, they will be those who represented our country's cause in its later peril and its larger triumph. Just in proportion as ideas are involved is conflict elevated, especially if those ideas concern the Equal Rights of All.

Greene died at the South, and nobody knows the place of his burial. He lies without epitaph or tombstone. To-day a grateful country writes his epitaph and gives him a monument in the Capitol.

CAMBRIDGE
PUBLIC LIBRARY.
DISCARDED.

PERSONAL RECORD ON RECONSTRUCTION WITH COLORED SUFFRAGE.

REMARKS IN THE SENATE, JANUARY 21 AND FEBRUARY 10, 1870.

THE arraignment of Mr. Sumner by Mr. Trumbull, of Illinois, in the closing debate on the Virginia Bill, January 21st, included, as remarked in that connection,[1] a reference to matters of earlier date, — specifically among these being the Reconstruction Act of March 2, 1867, conferring upon the colored people of the Rebel States equality of suffrage with the whites.[2] Adverting to the fact that this bill was an amendment in the nature of a substitute for one from the House, and then reading the names of the Senators who voted for it, Mr. Trumbull asked, —

"Mr. President, do you miss the name of any Senator from that list of Yeas? — That was the vote by which that amendment was adopted. — The 'Absent' were, among others, 'Mr. Sumner.'"

And upon this showing, Mr. Trumbull concluded, that,

"Unfortunately the colored citizens of the South have nothing to thank the Senator from Massachusetts for, in having the right of suffrage conferred upon them."

Mr. Trumbull continued: —

"Mr. President, this was not the only vote. A vote was taken, after this amendment was adopted, upon the passage of the bill thus amended; and the vote on the passage of the bill was Yeas 29, Nays 10, and among those Yeas is not found the name of the Senator from Massachusetts.

"But, Sir, it sometimes happens that malice and hatred will produce results which reason and good-will can never accomplish; and when we passed this bill giving the right of suffrage to the colored men in the South without the aid of the Senator from Massachusetts and sent it to the Presi-

[1] *Ante*, p. 231.

[2] Act to provide for the more efficient Government of the Rebel States, Section 5: Statutes at Large, Vol. XIV. pp. 428-9.

dent [Mr. JOHNSON] he vetoed it, and on the question of passing it over his veto the Senator from Massachusetts voted with us. His affection for the President was not such as to allow him to coincide with him in anything. So we got his vote at last, but we had two-thirds without him.

"This is the record, Mr. President."

Mr. Sumner answered: —

THIS assault to-day compels me to make a statement now which I never supposed I should be called to make. I make it now with hesitation, but rather to show the Senator's course than my own. Sir, I am the author of the provision in that Act conferring suffrage; and when I brought it forward, the Senator from Illinois was one of my opponents, — then as now. Senators who were here at that time remember well that this whole subject was practically taken for the time from the jurisdiction of the Senate into a caucus of the Republican party, where a committee was created to whom all pending measures of Reconstruction were referred. I had the honor of being a member of that committee. So was the Senator from Illinois. So was my friend from Michigan [Mr. HOWARD]. The Senator from Ohio [Mr. SHERMAN] was our chairman. In that committee this Reconstruction Bill was debated and matured sentence by sentence, word for word; and then and there, in that committee, I moved that we should require the suffrage of all persons, without distinction of color, in the organization of new governments, and in all the constitutions to be made.

In making this proposition at that time I only followed the proposition I had made in the Senate two years before,[1] which I had urged upon the people in an

[1] Proviso in Amendment of Resolution recognizing the New State Government of Louisiana, February 25, 1865: No Reconstruction without the Votes of the Blacks: Congressional Globe, 38th Cong. 2d Sess., p. 1099; *Ante*, Vol. IX. p. 317.

elaborate address at a political convention in Massachusetts,[1] which I had again upheld in an elaborate effort for two days in this Chamber,[2] and which from the beginning I had never lost from my mind or heart. It was natural that I should press it in committee; but I was overruled, — the Senator opposing me with his accustomed determination. I was voted down. The chairman observed my discontent and said, "You can renew your motion in caucus." I did so, stating that I had been voted down in committee, but that I appealed from the committee to the caucus. My colleague [Mr. WILSON], who sits before me, called out, "Do so"; and then rising, said, in language which he will pardon me for quoting, but which will do him honor always, "The report of the committee will leave a great question open to debate on every square mile of the South. We must close that question up." Another Senator, who is not now here, — I can therefore name him, — Mr. Gratz Brown [of Missouri], cried out most earnestly, "Push it to a vote; we will stand by you." I needed no such encouragement, for my determination was fixed. There sat the Senator from Illinois, sullen in his accustomed opposition. I pushed it to a vote, and it was carried by only two majority, Senators rising to be counted. My colleague, in his joy on the occasion, exclaimed, "This is the greatest vote that has been taken on this continent!" He felt, I felt, we all felt, that the question of the suffrage was then and there secured. By that vote

[1] Speech at the Republican State Convention in Worcester, Mass., September 14, 1865: The National Security and the National Faith: *Ante*, Vol. IX. pp. 459-60.

[2] Speech on a proposed Amendment of the Constitution, February 5 and 6, 1866: The Equal Rights of All: Congressional Globe, 39th Cong. 1st Sess., pp. 673-87; *Ante*, Vol. X. pp. 115, seqq.

the committee was directed to make it a part of Reconstruction. This was done, and the measure thus amended was reported by the Senator from Ohio as chairman of the committee.

I am compelled to this statement by the assault of the Senator. I had no disposition to make it. I do not claim anything for myself. I did nothing but my duty. Had I done less, I should have been faithless, — I should have been where the Senator from Illinois placed himself.

The Senator read from the "Globe" the vote on the passage of the bill, and exulted because my name was not there. Sir, is there any Senator in this Chamber whose name will be found oftener on the yeas and nays than my own? Is there any Senator in this Chamber who is away from his seat less than I am? There was a reason for my absence on that occasion. I left this Chamber at midnight, fatigued, not well, knowing that the great cause was assured, notwithstanding the opposition of the Senator from Illinois, — knowing that at last the right of the colored people to suffrage was recognized. I had seen it placed in the bill reported from the committee. There it was on my motion, safe against the assaults of the Senator from Illinois. Why should I, fatigued, and not well, remain till morning to swell the large and ascertained majority which it was destined to receive?[1] I have no occasion to make up any such record. You know my fidelity to this cause. You know if I am in the habit of avoiding the responsibilities of my position. I cannot disguise, also, that there was another influence on my mind. Reconstruc-

[1] The vote on its adoption was Yeas 32, Nays 3. — *Senate Journal*, 39th Cong. 2d Sess., p. 293.

tion, even with the suffrage, was defective. More was needed. There should have been a system of public schools, greater protection to the freedmen, and more security against the Rebels, all of which I sought in vain to obtain in committee, and I found all effort in the Senate foreclosed by our action in caucus. Pained by this failure, and feeling that there was nothing more for me to do, after midnight I withdrew. On the return of the Act to the Senate on the veto of the President, I recorded my vote in its favor.

What Mr. Trumbull calls "the record" in this case, and which Mr. Sumner, in the surprise of the occasion, seemingly accepts, according to the obvious import of the term, as substantially the complete record, inspection of either the Congressional Globe or the Senate Journal shows to be very far from complete. The vote following the Presidential veto was by no means the only one in which Mr. Sumner's name appears: between this and the vote which would seem from the representation to have next preceded, designated as "the vote on the passage of the bill," there intervened another, involving in an important degree the character and fate of the whole measure.

The bill in its original form, as it came from the House, was purely, as indicated by its title, "a bill to provide for the more efficient government of the insurrectionary States," dividing them into military districts and placing them under military rule, — this being deemed the only effectual means of suppressing the outrages continually perpetrated upon the loyalists of the South, black and white, — its Reconstruction features, which included the provision for colored suffrage, being engrafted upon it by the Senate, coupled with considerable modifications of its military details. It was on the votes at this stage, February 16th, that Mr. Sumner's name was wanting.

On the return of the bill to the House for concurrence in these amendments, it at once encountered on the Republican side severe animadversion, aptly expressed in the remark, — "We sent to the Senate a proposition to meet the necessities of the hour, which was Protection without Reconstruction, and it sends back another which is Reconstruction without Protection." Concurrence was refused, and a committee of conference asked. The Senate insisting, and declining the proposed conference, the House proceeded alone, supplementing the

Reconstruction provisions with others guarding against Rebel domination,[1] and crowning their work with the emphatic vote of 128 Yeas to 46 Nays. To this vote the Senate yielded, by a concurrent vote of Yeas 35, Nays 7, — with "the effect," as announced, "of passing the bill." Mr. Sumner, hailing these amendments as what he had required, of course voted with the Yeas, — and his name so stands on both of the official registers, in immediate conjunction with Mr. Trumbull's.[2] This was on the 20th of February. The vote consequent upon the Veto was ten days later, when his name was again recorded with the Yeas.[3] These two were the only votes in the Senate on the Reconstruction Act of March 2, 1867, in the completeness of its provisions, as it appears in the Statute-Book.[4]

February 10th, 1870, the bill for the admission of Mississippi having come up for consideration in the Senate, Mr. Stewart, of Nevada, availed himself of the opportunity to reopen the personal controversy with Mr. Sumner, in an acrimonious speech denying his claim to the authorship of the provision for colored suffrage in the Reconstruction Act of 1867, and ascribing it to Mr. Bingham, of Ohio, a member of the other House, — quoting Mr. Sumner's opening declaration on this point, but resisting the reading of what followed in explanation and support of that declaration, under the plea that "he did not want it printed as part of his own speech."[5]

On the conclusion of Mr. Stewart's speech, Mr. Sumner answered as follows: —

MR. PRESIDENT, — You will bear witness that I am no volunteer now. I have been no volunteer on any of these recurring occasions when I have been assailed in this Chamber. I have begun no question. I began no question with the Senator from Nevada. I began no

[1] These supplementary amendments consisted of the Proviso at the end of Section 5, together with Section 6, of the Act as finally passed: Statutes at Large, Vol. XIV. pp. 428-9.

[2] Congressional Globe, 39th Cong. 2d Sess., p. 1645; Senate Journal, p. 320.

[3] Congressional Globe, p. 1976; Senate Journal, p. 424.

[4] See further, concerning the matters here referred to, Mr. Sumner's speeches in the debates on this bill, with the accompanying notes: *Ante*, Vol. XI. pp. 102, seqq.

[5] Congressional Globe, 41st Cong. 2d Sess., p. 1177.

question with the other Senator on my right [Mr. TRUMBULL]. I began no question yesterday with the Senator from New York [Mr. CONKLING].[1] I began no question, either, with the Senator from Wisconsin [Mr. CARPENTER].[2] But I am here to answer; and I begin by asking to have read at the desk what I did say, and what the Senator from Nevada was unwilling, as he declared, to have incorporated in his speech. I can understand that he was very unwilling. I send the passage to the Chair.

The passage referred to, embracing the first three paragraphs of Mr. Sumner's statement in answer to Mr. Trumbull, January 21st,[3] having been read, he proceeded: —

That statement is to the effect that on my motion that important proposition was put into the bill. Does anybody question it? Has the impeachment of the Senator to-day impaired that statement by a hair's-breadth? He shows that in another part of this Capitol patriot Representatives were striving in the same direction. All honor to them! God forbid that I should ever grudge to any of my associates in this great controversy any of the fame that belongs to them! There is enough for all, provided we have been faithful. Sir, it is not in my nature to take from any one credit, character, fame, to which he is justly entitled. The world is wide enough for all. Let each enjoy what he has earned. I ask nothing for myself. I asked nothing the other day; what I said was only in reply to the impeachment, the arraignment let me call it, by the Senator from Illinois.

[1] Debate on the Census Bill: Congressional Globe, 41st Cong. 2d Sess., pp. 1143, seqq.

[2] Debate, February 3d, on the Neutrality Laws: Ibid., pp. 1001, seqq.

[3] *Ante*, pp. 304–6.

I then simply said it was on my motion that this identical requirement went into the bill. The Senator, in reply, seeks to show that in the other Chamber a similar proposition was brought forward; but it did not become a part of the bill. He shows that it was brought forward in this Chamber, but did not become a part of the bill. It was on my motion that it did become a part of the bill. It was not unnatural, perhaps, that I should go further, as I did, and say that in making this motion I only acted in harmony with my life and best exertions for years. I have the whole record here. Shall I open it? I hesitate. In doing so I break a vow with myself. And yet it cannot be necessary. You know me in this Chamber; you know how I have devoted myself from the beginning to this idea, how constantly I have maintained it and urged it from the earliest date.

The first stage in this series — you [Mr. ANTHONY, of Rhode Island, in the chair] remember it; you were here; the Senator from Nevada was not here — goes to February 11, 1862, when

"Mr. Sumner submitted resolutions declaratory of the relations between the United States and the territory once occupied by certain States, and now usurped by pretended governments without constitutional or legal right."

In these resolutions it is declared, that, after an act of secession followed by war,

"The territory falls under the exclusive jurisdiction of Congress, as other territory, and the State becomes, according to the language of the law, *felo de se*."

The resolutions conclude as follows: —

"And that, in pursuance of this duty cast upon Congress, and further enjoined by the Constitution, Congress will assume complete jurisdiction of such vacated territory where such unconstitutional and illegal things have been attempted, and will proceed to establish therein republican forms of government under the Constitution, and, in the execution of this trust, will provide carefully for the protection of all the inhabitants thereof, for the security of families, the organization of labor, the encouragement of industry, and the welfare of society, and will in every way discharge the duties of a just, merciful, and paternal government."[1]

Sir, there was the beginning of Reconstruction in this Chamber. That was its earliest expression.

On the 8th of February, 1864, it appears that

"Mr. Sumner submitted resolutions defining the character of the national contest, and protesting against any premature restoration of Rebel States without proper guaranties and safeguards against Slavery and for the protection of freedmen."[2]

And on the same day it appears that he submitted the following Amendment to the Constitution, which, had it been adopted then, would have cured many of the difficulties that have since occurred, entitled —

"Amendment of the Constitution, securing Equality before the Law and the Abolition of Slavery."

It is as follows: —

"All persons are equal before the law, so that no person can hold another as a slave; and the Congress shall have

[1] Congressional Globe, 37th Cong. 2d Sess., pp. 736-7. *Ante*, Vol. VI. pp. 301-5.

[2] Congressional Globe, 38th Cong. 1st Sess., p. 523. *Ante*, Vol. VIII. pp. 75-79.

power to make all laws necessary and proper to carry this declaration into effect everywhere within the United States and the jurisdiction thereof." [1]

There, Sir, was the beginning of Civil-Rights Bills and Political-Rights Bills. On the same day it appears that Mr. Sumner introduced into the Senate "A bill to secure equality before the law in the courts of the United States." [2]

The debate went on. On the 25th of February, 1865, a resolution of the Judiciary Committee was pending, recognizing the State Government of Louisiana. Mr. Sumner on that day introduced resolutions thus entitled: —

"Resolutions declaring the duty of the United States to guaranty Republican Governments in the Rebel States on the basis of the Declaration of Independence, so that *the new governments*" —

that is, the reconstructed governments —

"shall be founded on the consent of the governed and the equality of all persons before the law."

Of this series of resolutions I will read two.

"That the path of justice is also the path of peace; and that for the sake of peace it is better to obey the Constitution, and, in conformity with its requirements, in the performance of the guaranty, to reëstablish State governments on the consent of the governed and the equality of all persons before the law, to the end that the foundations thereof may be permanent, and that no loyal majorities may be again overthrown or ruled by any oligarchical class."

[1] Congressional Globe, 38th Cong. 1st Sess., p. 521.
[2] Ibid., p. 522.

Then comes another resolution:—

"That considerations of expediency are in harmony with the requirements of the Constitution and the dictates of justice and reason, especially now, when colored soldiers have shown their military value; that, as their muskets are needed for the national defence against Rebels in the field, so are their ballots yet more needed against the subtle enemies of the Union at home; and that without their support at the ballot-box the cause of Human Rights and of the Union itself will be in constant peril."[1]

On the resolution reported by the Senator from Illinois for the admission of Louisiana without Equal Rights, I had the honor of moving the very proposition now in question, under date of February 25, 1865:—

"*Provided*, That this shall not take effect, except upon the fundamental condition *that within the State there shall be no denial of the electoral franchise or of any other rights on account of color or race, but all persons shall be equal before the law.*"[2]

Here was the first motion in this Chamber for equality of suffrage as a measure of Reconstruction. I entitled it at the time "the corner-stone of Reconstruction." But here, Sir, it was my misfortune to encounter the strenuous opposition of the Senator from Illinois. I allude to this with reluctance; I have not opened this debate; and I quote what I do now simply in reply to the Senator from Nevada. Replying on that occasion to the Senator from Illinois, I said:—

[1] Congressional Globe, 38th Cong, 2d Sess., p. 1091. *Ante*, Vol. IX. pp. 329–32.

[2] Congressional Globe, 38th Cong. 2d Sess., p. 1099. *Ante*, Vol. IX. p. 317.

"The United States are bound by the Constitution to 'guaranty to every State in this Union a republican form of government.' Now, when called to perform this guaranty, it is proposed to recognize an oligarchy of the skin. The pretended State government in Louisiana is utterly indefensible, whether you look at its origin or its character. To describe it, I must use plain language. It is a mere seven-months' abortion, begotten by the bayonet in criminal conjunction with the spirit of Caste, and born before its time, rickety, unformed, unfinished, whose continued existence will be a burden, a reproach, and a wrong. That is the whole case; and yet the Senator from Illinois now presses it upon the Senate at this moment, to the exclusion of the important public business of the country."[1]

The Louisiana Bill, though pressed by the Senator from Illinois, was defeated; and the equal rights of the colored race were happily vindicated. His opposition was strenuous.

But, Sir, I did not content myself with action in this Chamber. Our good President was assassinated. The Vice-President succeeded to his place. Being here in Washington, I entered at once into relations with him, — hoping to bring, if possible, his great influence in favor of this measure of Reconstruction; and here is a record, made shortly afterward, which I will read.

"During this period I saw the President frequently, — sometimes at the private house he then occupied, and sometimes at his office in the Treasury. On these occasions the constant topic was 'Reconstruction,' which was considered in every variety of aspect. More than once I ventured to press upon him the duty and the renown of carrying out the prin-

[1] Congressional Globe, 38th Cong. 2d Sess., p. 1129. *Ante*, Vol. IX. pp. 322-3.

ciples of the Declaration of Independence, and of founding the new governments in the Rebel States on the consent of the governed, without any distinction of color. To this earnest appeal he replied, on one occasion, as I sat with him alone, in words which I can never forget: 'On this question, Mr. Sumner, there is no difference between us: you and I are alike.' Need I say that I was touched to the heart by this annunciation, which seemed to promise a victory without a battle? Accustomed to controversy, I saw clearly, that, if the President declared himself in favor of the Equal Rights of All, the good cause must prevail without controversy."[1]

Then followed another incident: —

"On another occasion, during the same period, the case of Tennessee was discussed. I expressed the hope most earnestly that the President would use his influence directly for the establishment of impartial suffrage in that State, — saying, that, in this way, Tennessee would be put at the head of the returning column, and be made an example, — in one word, that all the other States would be obliged to dress on Tennessee. The President replied, that, if he were at Nashville, he would see that this was accomplished. I could not help rejoining promptly, that he need not be at Nashville, for at Washington his hand was on the long end of the lever, with which he could easily move all Tennessee, — referring, of course, to the powerful, but legitimate, influence which the President might exercise in his own State by the expression of his desires."[2]

Then, again, as I was about to leave on my return home to Massachusetts, in an interview with him I

[1] See Address at the Music Hall, Boston, October 2, 1866, entitled "The One Man Power *vs.* Congress": *Ante*, Vol. XI. p. 20.

[2] Ibid., p. 21.

ventured to express my desires and aspirations as follows: this was in May, 1865:—

"After remarking that the Rebel region was still in military occupation, and that it was the plain duty of the President to use his temporary power for the establishment of correct principles, I proceeded to say: 'First, see to it that no newspaper is allowed which is not thoroughly loyal and does not speak well of the National Government and of Equal Rights'; and here I reminded him of the saying of the Duke of Wellington, that in a place under martial law an unlicensed press was as impossible as on the deck of a ship of war. 'Secondly, let the officers that you send as military governors or otherwise be known for their devotion to Equal Rights, so that their names alone will be a proclamation, while their simple presence will help educate the people'; and here I mentioned Major-General Carl Schurz, who still held his commission in the Army, as such a person. 'Thirdly, encourage the population to resume the profitable labors of agriculture, commerce, and manufactures, without delay, — but for the present to avoid politics. Fourthly, keep the whole Rebel region under these good influences, and at the proper moment hand over the subject of Reconstruction, with the great question of Equal Rights, to the judgment of Congress, where it belongs.' All this the President received at the time with perfect kindness; and I mention this with the more readiness because I remember to have seen in the papers a very different statement."[1]

Before I left Washington, and in the midst of my interviews with the President, I was honored by a communication from colored citizens of North Carolina, asking my counsel with regard to their rights,

[1] Address at the Music Hall: The One Man Power *vs.* Congress: *Ante*, Vol. XI. pp. 21–22.

especially the right to vote. I will not read their letter, — it was published in the papers of the time, and much commented upon, — but I will read my reply.[1]

"WASHINGTON, May 13, 1865.

"GENTLEMEN, — I am glad that the colored citizens of North Carolina are ready to take part in the organization of Government. It is unquestionably their right and duty.

"I see little chance of peace or tranquillity in any Rebel State, unless the rights of all are recognized, without distinction of color. On this foundation we must build.

"The article on Reconstruction to which you call my attention proceeds on the idea, born of Slavery, that persons with a white skin are the only 'citizens.' This is a mistake.

"As you do me the honor to ask me the proper stand for you to make, I have no hesitation in replying that you must insist on all the rights and privileges of a citizen. They belong to you; they are yours; and whoever undertakes to rob you of them is a usurper and impostor.

"Of course you will take part in any primary meetings for political organization open to citizens generally, and will not miss any opportunity to show your loyalty and fidelity.

"Accept my best wishes, and believe me, Gentlemen, faithfully yours,

"CHARLES SUMNER."

Such was my earnestness in this work, that, when invited by the municipality of Boston, where I was born and have always lived, to address my fellow-citizens in commemoration of the late President, I deemed it my duty to dedicate the day mainly to a vindication of Equal Rights as represented by him. I hold in

[1] For both letter and reply, see, *ante*, Vol. IX. pp. 363-4.

my hand the address on that occasion, from which I will read one passage. This was on the 1st of June, 1865.

"The argument for Colored Suffrage is overwhelming. It springs from the necessity of the case, as well as from the Rights of Man. This suffrage is needed for the security of the colored people, for the stability of the local government, and for the strength of the Union. Without it there is nothing but insecurity for the colored people, instability for the local government, and weakness for the Union, involving of course the national credit."[1]

This was followed by a letter, dated Boston, July 8, 1865, addressed to the colored people of Savannah, who had done me the honor of forwarding to me a petition asking for the right to vote, with the request that I would present it to the President. After saying, that, had I been at Washington, I should have had great pleasure in presenting the petition personally, but that I was obliged to content myself with another method, I proceeded in this way:—

"Allow me to add, that you must not be impatient. You have borne the heavier burdens of Slavery; and as these are now removed, believe the others surely will be also. This enfranchised Republic, setting an example to mankind, cannot continue to sanction an odious oligarchy whose single distinctive element is color. I have no doubt that you will be admitted to the privileges of citizens.

"It is impossible to suppose that Congress will sanction governments in the Rebel States which are not founded on 'the consent of the governed.' This is the corner-stone of republican institutions. Of course, by the 'governed' is

[1] *Ante*, Vol. IX. pp. 424–5.

meant all the loyal citizens, without distinction of color. Anything else is mockery.

"Never neglect your work; but, meanwhile, prepare yourselves for the privileges of citizens. They are yours of right, and I do not doubt that they will be yours soon in reality. The prejudice of Caste and a false interpretation of the Constitution cannot prevail against justice and common sense, both of which are on your side, — and I may add, the Constitution also, which, when properly interpreted, is clearly on your side.

"Accept my best wishes, and believe me, fellow-citizens, faithfully yours,

"CHARLES SUMNER."[1]

This was followed by an elaborate speech before the Republican State Convention at Worcester, September 14, 1865, entitled "The National Security and the National Faith: Guaranties for the National Freedman and the National Creditor," — where I insisted that national peace and tranquillity could be had only from *impartial suffrage;* and I believe that it was on this occasion that this phrase, which has since become a formula of politics, was first publicly employed. My language was as follows: —

"As the national peace and tranquillity depend essentially upon the overthrow of monopoly and tyranny, here is another occasion for special guaranty against the whole pretension of color. *No Rebel State can be readmitted with this controversy still raging and ready to break forth.*"

Mark the words, if you please.

"So long as it continues, the land will be barren, agriculture and business of all kinds will be uncertain, and the coun-

[1] *Ante*, Vol. IX. p. 431.

try will be handed over to a fearful struggle, with the terrors of San Domingo to darken the prospect. In shutting out the freedman from his equal rights at the ballot-box, you open the doors of discontent and insurrection. Cavaignac, the patriotic President of the French Republic, met the present case, when, speaking for France, he said: 'I do not believe repose possible, either in the present or the future, except so far as you found your political condition on universal suffrage, loyally, sincerely, completely accepted and observed."[1]

I then proceeded, — not adopting the term "universal suffrage," employed by the eminent Frenchman, — as follows: —

"It is *impartial suffrage* that I claim, without distinction of color, so that there shall be one equal rule for all men. And this, too, must be placed under the safeguard of Constitutional Law."[2]

I followed up this effort by a communication to that powerful and extensively circulated paper, the New York "Independent," under date of Boston, October 29, 1865, where I expressed myself as follows: —

"For the sake of the whole country, which suffers from weakness in any part, — for the sake of the States lately distracted by war, which above all things need security and repose, — for the sake of agriculture, which is neglected there, — for the sake of commerce, which has fled, — for the sake of the national creditor, whose generous trust is exposed to repudiation, — and, finally, for the sake of reconciliation, which can be complete only when justice prevails, we must insist upon Equal Rights as the condition of the new order of things."

[1] Speech in the Legislative Assembly, May 21, 1850: Moniteur, May 22, 1850, p. 1761.

[2] *Ante*, Vol. IX. pp. 459-60.

Mark, if you please, Sir, "as the condition of the new order of things," — or, as I called it on other occasions, the corner-stone of Reconstruction.

"So long as this question remains unsettled, there can be no true peace. Therefore I would say to the merchant who wishes to open trade with this region, to the capitalist who would send his money there, to the emigrant who seeks to find a home there, Begin by assuring justice to all men. This is the one essential condition of prosperity, of credit, and of tranquillity. Without this, mercantile houses, banks, and emigration societies having anything to do with this region must all fail, or at least suffer in business and resources. To Congress we must look as guardian, under the Constitution, of the national safety." [1]

Meanwhile the President adopted a policy of reaction. I was at home in Massachusetts, and from Boston, under date of November 12, 1865, I addressed him a telegraphic dispatch, as follows: —

"To the President of the United States, Washington.

"As a faithful friend and supporter of your administration, I most respectfully petition you to suspend for the present your policy towards the Rebel States. I should not present this prayer, if I were not painfully convinced that thus far it has failed to obtain any reasonable guaranties for that security in the future which is essential to peace and reconciliation. To my mind, it abandons the freedmen to the control of their ancient masters, and leaves the national debt exposed to repudiation by returning Rebels. The Declaration of Independence asserts the equality of all men, and that rightful government can be founded only on the consent of the governed. I see small chance of peace, unless these great princi-

[1] The Independent, November 2, 1865. *Ante*, Vol. IX. pp. 500-1.

ples are practically established. Without this the house will continue divided against itself.

"CHARLES SUMNER,
"*Senator of the United States.*"[1]

Not content with these efforts, in an article more literary than political in its character, which found a place in the "Atlantic Monthly" for December, 1865, entitled, "Clemency and Common Sense: a Curiosity of Literature, with a Moral," I again returned to this same question. I will quote only a brief passage.

"Again, we are told gravely that the national power which decreed Emancipation cannot maintain it by assuring universal enfranchisement, because an imperial government must be discountenanced, — as if the whole suggestion of 'Imperialism' or 'Centralism' were not out of place, until the national security is established, and our debts, whether to the national freedman or the national creditor, are placed where they cannot be repudiated. A phantom is created, and, to avoid this phantom, we drive towards concession and compromise, as from Charybdis to Scylla."[2]

The session of Congress opened December 4, 1865, and you will find that on the first day I introduced two distinct measures of Reconstruction, with Equality before the Law as their corner-stone. The first was a bill in the following terms: —

"A BILL in part execution of the guaranty of a republican form of government in the Constitution of the United States.

"Whereas it is declared in the Constitution that the United States shall guaranty to every State in this Union a republican form of government; and whereas certain States have

[1] The One Man Power *vs.* Congress: *Ante*, Vol. XI. p. 24.
[2] Atlantic Monthly, Vol. XVI. p. 760. *Ante*, Vol. IX. p. 542.

allowed their governments to be subverted by rebellion, so that the duty is now cast upon Congress of executing this guaranty: Now, therefore,

"*Be it enacted, &c.*, That in all States lately declared to be in rebellion there shall be no oligarchy invested with peculiar privileges and powers, and there shall be no denial of rights, civil or political, on account of race or color; but all persons shall be equal before the law, whether in the court-room or at the ballot-box. And this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the Constitution or laws of any such State to the contrary notwithstanding."[1]

The second was "A Bill to enforce the guaranty of a republican form of government in certain States whose governments have been usurped or overthrown."[2] Read this bill, if you please, Sir. I challenge criticism of it at this date, in the light of all our present experience. It is in twelve sections, and you will find in it the very proposition which is now in question, — being the requirement of Equal Rights for All in the reconstruction of the Rebel States.

"SEC. 5. *And be it further enacted*, That the delegates" —

that is, the delegates to the Convention for the reëstablishment of a State government —

"shall be elected by *the loyal male citizens* of the United States, of the age of twenty-one years, and resident at the time in the county, parish, or district in which they shall offer to vote, and enrolled as aforesaid, or absent in the military service of the United States."[3]

[1] Congressional Globe, 39th Cong. 1st Sess., p. 2. *Ante*, Vol. X. p. 14.
[2] Congressional Globe, 39th Cong. 1st Sess., p. 2. *Ante*, Vol. X. p. 21.
[3] *Ante*, Vol. X. p. 23.

And then the bill proceeds to provide, —

"SEC. 8. . . . . That the Convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guaranty a republican form of government to every State, and incorporate them in the Constitution of the State: that is to say: —"

After one — two — three — four provisions, the section proceeds as follows: —

"Fifthly, There shall be no distinction among the inhabitants of this State founded on race, former condition, or color. Every such inhabitant shall be entitled to all the privileges before the law enjoyed by the most favored class of such inhabitants."

And the section concludes: —

"Sixthly, These provisions shall be perpetual, not to be abolished or changed hereafter."[1]

Nor is this all. On the same day I introduced "A Bill supplying appropriate legislation to enforce the Amendment to the Constitution prohibiting Slavery,"[2] of which I will read the third section: —

"That, in further enforcement of the provision of the Constitution prohibiting Slavery, and in order to remove all relics of this wrong from the States where this constitutional prohibition takes effect, it is hereby declared that all laws or customs in such States, establishing any oligarchical privileges, and any distinction of rights on account of race or

[1] *Ante*, Vol. X. pp. 25–26.

[2] Congressional Globe, 39th Cong. 1st Sess., p. 2. *Ante*, Vol. X. p. 16.

color, are hereby annulled, *and all persons in such States are recognized as equal before the law;* and the penalties provided in the last section are hereby made applicable to any violation of this provision, which is made in pursuance of the Constitution of the United States."[1]

Still further, on the same day I introduced "Resolutions declaratory of the duty of Congress in respect to guaranties of the national security and the national faith in the Rebel States." One of these guaranties which I proposed to establish was as follows:—

"The complete suppression of all oligarchical pretensions, and the complete enfranchisement of all citizens, *so that there shall be no denial of rights on account of color or race;* but justice shall be impartial, and all shall be equal before the law."

I added also a provision which I was unable to carry, — it was lost by a tie vote, — as follows:—

"The organization of an educational system for the equal benefit of all, without distinction of color or race."[2]

Such, Sir, were the measures which I had the honor of bringing forward at the very beginning of the session. During the same session, in an elaborate effort which occupied two days, February 5 and 6, 1866, and is entitled "The Equal Rights of All: the great Guaranty and present Necessity, for the sake of Security, and to maintain a Republican Government," I vindicated the necessity of the colored suffrage in order to obtain peace and reconciliation, and I placed it on the

[1] *Ante*, Vol. X. p. 17.

[2] Congressional Globe, 39th Cong. 1st Sess., p. 2. *Ante*, Vol. X. pp. 33, 34.

foundations of Constitutional Law as well as natural justice. Here is a passage from this speech: —

"And here, after this long review, I am brought back to more general considerations, and end as I began, by showing the necessity of Enfranchisement for the sake of public security and public faith. I plead now for the ballot, as the great guaranty, and *the only sufficient guaranty*, — being in itself peacemaker, reconciler, schoolmaster, and protector, — to which we are bound by every necessity and every reason; and I speak also for the good of the States lately in rebellion, as well as for the glory and safety of the Republic, that it may be an example to mankind."

The speech closed as follows: —

"The Roman Cato, after declaring his belief in the immortality of the soul, added, that, if this were an error, it was an error he loved. And now, declaring my belief in Liberty and Equality as the God-given birthright of all men, let me say, in the same spirit, if this be an error, it is an error I love, — if this be a fault, it is a fault I shall be slow to renounce, — if this be an illusion, it is an illusion which I pray may wrap the world in its angelic forms."[1]

The discussion still proceeded, and only a month later, March 7, 1866, I made another elaborate effort with the same object, from which I read my constant testimony: —

"I do not stop to exhibit the elective franchise as essential to the security of the freedman, without which he will be the prey of Slavery in some new form, and cannot rise to the stature of manhood. In opening this debate I presented the argument fully. Suffice it to say that Emanci-

[1] Congressional Globe, 39th Cong. 1st Sess., pp. 685, 687. *Ante*, Vol. X. pp. 219, 236-7.

pation will fail in beneficence, if you do not assure to the former slave all the rights of the citizen. Until you do this, your work will be only *half done*, and the freedman only *half a man*."

This speech closed as follows: —

"Recall the precious words of the early English writer, who, describing 'the Good Sea-Captain,' tells us that he 'counts the image of God nevertheless His image, cut in ebony, as if done in ivory.'[1] The good statesman must be like the good sea-captain. His ship is the State, which he keeps safe on its track. He, too, must see the image of God in all his fellow-men, and, in the discharge of his responsible duties, must set his face forever against any recognition of inequality in human rights. Other things you may do, but this you must not do."[2]

I do not quote other efforts, other speeches, but pass to the next session of Congress, when, at the beginning, under date of December 5, 1866, I introduced resolutions thus entitled: —

"Resolutions declaring the true principles of Reconstruction, the jurisdiction of Congress over the whole subject, the illegality of existing governments in the Rebel States, and the exclusion of such States with such illegal governments from representation in Congress and from voting on Constitutional Amendments."

Of these resolutions the fourth is as follows: —

"That, in determining what is a republican form of government, Congress must follow implicitly the definition supplied by the Declaration of Independence, and, in the practi-

[1] Fuller, Holy State: The Good Sea-Captain.

[2] Congressional Globe, 39th Cong. 1st Sess., pp. 1231-2. *Ante*, Vol. X. pp. 334-5, 337.

cal application of this definition, it must, after excluding all disloyal persons, take care *that new governments are founded on the two fundamental truths therein contained: first, that all men are equal in rights; and, secondly, that all just government stands only on the consent of the governed.*" [1]

Meanwhile the subject of Reconstruction was practically discussed in both Houses of Congress. In this Chamber a bill was introduced by the Senator from Oregon [Mr. WILLIAMS], providing a military government. In the House there was another bill, and on that bill good Representatives — to whom be all honor! — sought to ingraft the requirement of colored suffrage. This effort, unhappily, did not prevail. The bill came to this Chamber without it. In this Chamber the same effort was made; but the bill, while it was still immatured, passed into our caucus. The effort which had thus far failed was then renewed by me in the committee, where it again failed. It was then renewed by me in the caucus, where it triumphed. This is the history of that proposition. I claim nothing for myself. I alluded to it the other day only in direct reply to the arraignment of the Senator from Illinois. I allude to it now reluctantly, and only in direct reply to the arraignment of the Senator from Nevada. I regret to be obliged to make any allusion to it. I think there is no occasion for any. I have erred, perhaps, in taking so much time in this explanation; but when the Senator, after days and weeks of interval, came here with his second indictment, I felt that I might without impropriety throw myself upon the indulgence of this Chamber to make the simple explanation that I have made.

[1] Congressional Globe, 39th Cong. 2d Sess., p. 15. *Ante*, Vol. XI. pp. 44-45.

I have shown that as early as February 25, 1865, I proposed in this Chamber to require the colored suffrage as the corner-stone of Reconstruction. I have shown that in an elaborate bill introduced December 4, 1865, being a bill of Reconstruction, I required the very things which were afterward introduced in the Reconstruction Act of 1867; and I have shown also that here in this Chamber, at home among my constituents, in direct intercourse with the President, and also in communication with colored persons at the South, from the beginning, I insisted upon the colored suffrage as the essential condition of Reconstruction. It so happened that I was a member of the committee appointed by the caucus to consider this question, giving me the opportunity there of moving it again; and then I had another opportunity in the caucus of renewing the effort. I did renew it, and, thank God, it was successful.

Had Mr. Bingham or Mr. Blaine, who made a kindred effort in the House, been of our committee, and then of our caucus, I do not doubt they would have done the same thing. My colleague did not use too strong language, when he said that then and there, in that small room, in that caucus, was decided the greatest pending question on the North American Continent. I remember his delight, his ecstasy, at the result. I remember other language that he employed on that occasion, which I do not quote. I know he was elevated by the triumph; and yet it was carried only by two votes. There are Senators who were present at that caucus according to whose recollection it was carried only by one vote. The Postmaster-General, in conversing with me on this subject lately, told me that he had often, in ad-

dressing his constituents, alluded to this result as illustrating the importance of one vote in deciding a great question. The Postmaster-General was in error. It was not by one vote, but by two votes, that it was carried.

Mr. Sherman, of Ohio, following with personal recollections concerning the provision for colored suffrage in the Reconstruction Act of 1867, said it was his "impression" that the motion for its adoption "in caucus" was made by "the Senator's colleague [Mr. WILSON]," "but undoubtedly the other Senator from Massachusetts [Mr. SUMNER] made it in committee, and advocated it," — adding, however, "Neither the Senator from Massachusetts nor any other Senator can claim any great merit in voting for universal suffrage in February or March, 1867. His record was made long before that." In reference to the latter Mr. Sherman remarked: —

"The Senator from Massachusetts needs no defender of his course on the question of universal suffrage. No man can deny that from the first, and I think the very first, he has advocated and maintained the necessity of giving to the colored people of the Southern States the right to vote. . . . . Early and late he has repeated to us the necessity of conferring suffrage upon the colored people of the South as the basis of Reconstruction. I think, therefore, that he is justified in stating that he was the first to propose it in this body; and why should the Senator deem it necessary to spend one hour of our valuable time now to prove this fact? In my judgment it would be just as well for George Washington to defend himself against the charge of disloyalty to the American Colonies, for whom he was fighting, as for the honorable Senator to defend his record on this question."

After further remarks by Mr. Stewart and Mr. Trumbull, of the same character as the first, Mr. Wilson rose and addressed the Chair; but a previous motion for adjournment being insisted upon and prevailing, he was cut off, and the matter subsided.

ADMISSION OF MISSISSIPPI TO REPRESENTATION IN CONGRESS.

SPEECH IN THE SENATE, FEBRUARY 17, 1870.

FEBRUARY 8, 1870, Mr. Trumbull, from the Committee on the Judiciary, to whom had been referred a bill from the House for the admission of Mississippi to representation in Congress, with conditions the same as in the case of Virginia, reported it back with an amendment striking out all these, and admitting the State unconditionally.

In a speech, February 17th, in reference to the proposed amendment, Mr. Sumner said : —

MR. PRESIDENT, — Throughout the long struggle anterior to the Rebellion, and then throughout the Rebellion itself, Slavery had two voices by which it was heard in this Chamber and in the country. The first was that by which its continued existence was vindicated, or, if you please, the right of Slavery; the other was that of State Rights. By these two voices was Slavery heard. Happily, the first is silenced; but the other is still sounding among us, crying out against those generous efforts by which Human Rights are assured.

I am not wrong in this statement. From the beginning it has been the same. How often in times past have we heard the cry of State Rights! At every proposition concerning Slavery, at the presentation of every petition against this tyrannical wrong, at every allusion to it, the cry was heard. And when the Rebellion broke

forth, the same cry was raised against those great measures of self-defence by which Slavery, our real enemy, was assailed; and then at each stage of Reconstruction it was the same. Not a measure of Reconstruction which has not encountered this pretension of State Rights. It broke forth in the Virginia debate. It breaks forth on the present occasion. Again we hear the voice of Slavery.

This pretension, which is so constantly manifest, finds partisans naturally on the other side of the Chamber. It is easy for Senators who have upheld Slavery to uphold that interpretation of the Constitution which was the constant ally of Slavery; but it is incomprehensible how Senators fresh from the great battle with Slavery should continue in dalliance with the constant ally.

The argument for State Rights proceeds on a misapprehension. Nobody doubts the right of a State to local self-government, through which are supplied the opportunities of political education, and also of local administration adapted precisely to local wants. This is the peculiarity of our national system, wherein it differs especially from the centralized imperialism of France. But while recognizing the State as the agency for all matters properly local, it must not be allowed to interfere with those other matters, being rights and duties, which are not local, but universal.

Now, Sir, nothing can be clearer than that the Equal Rights of All must be placed under the safeguard of one uniform law which shall be the same in all parts of the nation, — the same in Charleston and New Orleans as in Boston and Chicago. It is absurd to suppose that the rights of the citizen can differ in different States. They must be the same in all the States; but this can

be consummated only by the national authority. Therefore, on grounds of reason, I repel that pretension of State Rights which would take this just prerogative from the nation. Understand me, Sir, I do not seek to *centralize*, but to *nationalize*. The partisans of State Rights, in their efforts to *decentralize*, would *denationalize*. In the name of local self-government they would overthrow the nation.

If I am asked where I find these national powers, I answer, that they are in those two great title-deeds of the Republic, the Declaration of Independence and the National Constitution. Whether viewed apart or together, these two are one and the same; but the two reinforce each other. The Declaration of Independence finds proper machinery for its great purposes in the National Constitution, while the National Constitution is explained, invigorated, and elevated by the Declaration of Independence. By the National Constitution the nation is bound to assure a republican government to all the States, thus giving to Congress the plenary power to fix the definition of such a government; but by the Declaration of Independence the fundamental elements of this very definition are supplied in terms from which there can be no appeal. By this Declaration it is solemnly announced, first, that all men are equal in rights, and, secondly, that just government stands only on the consent of the governed. Other things may fail, but these cannot. Whenever Congress is called to maintain a republican government, it must be according to these universal, irreversible principles. The power to maintain necessarily implies all ancillary powers of prevention and precaution, so that republican government may be assured. All these powers are essentially

national, and not local; they belong to the nation, and not to the State.

So long as Slavery existed, this definition was impossible. State Rights were set up against Human Rights; but with the death of Slavery, followed by the extinction of the Rebellion, this definition takes its just place in our national system. Therefore whatever tends to maintain a republican government and to place it beyond assault, whatever tends to maintain the great principles declared at our birth as a nation, — all this is constitutional. As well deny that the sun shines, — as well with puny arm attempt to drag the sun from the sky; still it shines. God be praised! the day has passed when State Rights can be exalted above Human Rights.

It is for Congress to determine, in its discretion, how republican government shall be maintained. Whatever it does in this regard, whether by general law, or by condition or limitation on States, is plainly constitutional beyond all question. All is in the discretion of Congress, which may select the "means" by which this great guaranty shall be performed. It is a guaranty by the express text of the Constitution, and it must be performed. In selecting the means, Congress cannot hesitate at any requirement calculated to secure the beneficent result. By condition-precedent, by condition-subsequent, by prohibitory legislation, by legislation acting directly on the States or the people, by each and all of these Congress may act, bearing in mind always the great definition supplied by our fathers, which must be maintained at all hazards.

It is vain to say that our fathers did not intend this great power and foresee its exercise. There it is in the

Constitution, clear and commanding; and there is the great definition in the Declaration of Independence, clear and commanding. If our fathers did not fully appreciate their mighty act, neither did the barons at Runnymede, when they obtained Magna Charta, the perpetual landmark of English rights. The words of the poet are again fulfilled: "They builded better than they knew." But they did build. They built this vast temple of Republican Liberty, and enjoined upon Congress its perpetual safeguard, "anything in the constitution or laws of any State to the contrary notwithstanding"; and, Sir, by the oath which you have taken to support the Constitution, are you bound to watch and protect this vast temple.

The recent war has had its losses, terrible and afflicting. It has had its gains also. First among these gains is that interpretation of the Constitution which makes us a nation, and places the equal rights of all under the protection of the national power, — being nothing less than the fulfilment of the early promises of the Fathers. Too slowly has this been accomplished; but it is accomplished at last; and it is our duty to see that these promises are in no respect neglected, and that the Republic, One and Indivisible, dedicated to Human Rights, and an example to mankind, is upheld in every part of our wide-spread country.

The amendment striking out the conditions of admission was rejected, and the bill passed in the form in which it came from the House, — Yeas 50, Nays 11.

THE FIRST COLORED SENATOR.

SPEECH IN THE SENATE, ON THE ADMISSION OF HON. HIRAM R. REVELS, A COLORED PERSON, AS SENATOR OF MISSISSIPPI, FEBRUARY 25, 1870.

MR. PRESIDENT, — The time has passed for argument. Nothing more need be said. I doubt if anything more can be said in the way of argument.

For a long time it has been clear that colored persons must be Senators, and I have often so declared. This was only according to the irresistible logic of the situation, to say nothing of inherent right.

If I do not discuss the question, it is partly because it is now so plain, and partly because on other occasions I have considered it at length. There is not a point in the case which I have not argued long ago. Nearly a generation has intervened since I insisted at home, in Massachusetts, that all must be equal before the law, without any distinction of color.[1] Several years have intervened since here in this Chamber I insisted on the same truth, and at the same time showed how, at the adoption of the National Constitution, colored persons were citizens according to the terms of all the State Constitutions, except that of South Carolina, and perhaps Virginia and Georgia.[2] These arguments and au-

[1] Equality before the Law, — Argument before the Supreme Court of Massachusetts, December 4, 1849: *Ante*, Vol. II. pp. 327, seqq.

[2] The Equal Rights of All, — Speech on the proposed Amendment of the Constitution fixing the Basis of Representation, February 5 and 6, 1866: *Ante*, Vol. X. pp. 190–4.

thorities were not answered then. They cannot be answered. It is useless to interpose ancient pretensions. They are dead beyond resurrection. It is useless to interpose the Dred Scott decision. Born a putrid corpse, this decision became at once a stench in the nostrils and a scandal to the Court itself, which made haste to turn away from its offensive offspring. By the subsequent admission of a colored lawyer to practise at its bar this decision was buried out of sight, to be remembered only as a warning and a shame.[1]

The vote on this question will be an historic event, marking the triumph of a great cause. From this time there can be no backward step. After prolonged and hard-fought battle, beginning with the Republic, convulsing Congress, and breaking out in blood, the primal truths declared by our fathers are practically recognized. "All men are created equal," says the great Declaration; and now a great act attests this verity. To-day we make the Declaration a reality. For a long time a word only, it now becomes a deed. For a long time a promise only, it now becomes a consummated achievement. The Declaration was only half established by Independence. The greater duty remained behind. In assuring the Equal Rights of All we complete the work.

No man acts for himself alone. What he does, whether for good or evil, is felt in widening circles, according to the measure of his influence. This is true of the Senate, whose influence is coextensive with the Republic, and reaches even beyond its enlarging con-

[1] See article entitled "Admission of a Colored Lawyer to the Bar of the Supreme Court of the United States," February 1, 1865: *Ante*, Vol. IX. pp. 229, seqq.

fines. What the Senate does now will be followed by other bodies and associations. As the greater contains the less, so does the Senate contain all these everywhere throughout the land. In other places there may be a brief struggle, but the end is certain. Doors will open, exclusions will give way, intolerance will cease, and the great truth will be manifest in a thousand examples. Liberty and Equality were the two express promises of our fathers. Both are now assured. And this is the glory of the Republic, before whose mighty presence, radiant with justice, kings and nobles must disappear as the ghosts of night at the morning sun, while the people, with new-found power and majesty, take their place.

What we do to-day is not alone for ourselves, not alone for that African race now lifted up. It is for all everywhere who suffer from tyranny and wrong, — for all everywhere who bend beneath the yoke, — for all everywhere who feel the blight of unjust power; it is for all mankind; it is for God Himself, whose sublime Fatherhood we most truly confess when we recognize the Brotherhood of Man:

A motion by Mr. Stockton, of New Jersey, to refer the credentials of Mr. Revels to the Committee on the Judiciary was, after a debate of three days, defeated by a vote of 8 Yeas to 48 Nays; and on motion of Mr. Wilson, of Massachusetts, Mr. Revels was thereupon, by the corresponding vote of Yeas 48, Nays 8, admitted to a seat.

CONSIDERATION OF TREATIES IN OPEN SENATE.

REMARKS IN THE SENATE, MARCH 17, 1870.

ON a resolution submitted by Mr. Ferry, of Connecticut, providing that "any treaty for the annexation to the United States of the entire dominion of any foreign power shall be considered and the question of its ratification decided in open session of the Senate," Mr. Sumner said: —

FROM the beginning I have always held that the Senate erred in the establishment of secrecy, particularly with reference to treaties. I think the first year that I had the honor of a seat in the Senate the question of a change of our rule in that regard was presented, and I voted in its favor. I have seen nothing from that day to this to change my judgment upon that particular point materially. I think that the rule of secrecy was a traditional policy which we derived from the diplomatic usages of the Old World. We came to it naturally, and it has continued with us down to this day. Now, personally, I incline to change it; but I have two suggestions to present, applicable to the pending question. The first is, whether it is advisable to change it while it is known that an important treaty is actually pending; whether the change, if such change should be adopted by the Senate, should not be applicable to the future rather than to any pending question. I merely present that, without undertaking to deter-

mine it. The other point is, whether a change so important, not to say so radical, whatever may be the judgment of individual Senators, like the Senator from Connecticut, or like myself, should not be referred to the committee having charge of such questions. I would therefore suggest that the proposition be referred to the Committee on Foreign Relations. That committee will meet next Tuesday, and I have no doubt will take it at once into consideration.

The resolution was referred accordingly, and, upon the report of the Committee, was indefinitely postponed.

ELIGIBILITY TO THE SENATE: QUESTION OF INHABITANCY.

REMARKS IN THE SENATE, ON THE ADMISSION OF GENERAL ADELBERT AMES AS A SENATOR OF MISSISSIPPI, APRIL 1, 1870.

MR. PRESIDENT, — I hesitate to say a word in this debate. The question has been exhausted on both sides, and to me, I must be pardoned for saying, it is infinitely plain. It is plain in law; it is plain in fact. When I say it is plain in law, I believe all the Senate on both sides will concur, — for, indeed, the Senator from Ohio [Mr. THURMAN] stated the law precisely as I understand it.

We all know that in topography there are what are called water-sheds, sometimes high, sometimes low, and from these elevations flow in opposite directions the currents which there find their fountains. Sir, the water-shed of this debate is found in the intent; and this water-shed may be high or low. Suffice it that it is a water-shed; this is enough. Suffice it that the intent appears; and this is all that is required, in order to determine the character of the residence. Show me a citizen actually in a State, then the intent to remain fixes his inhabitancy.

The Senator from Illinois [Mr. TRUMBULL] substantially admitted this rule of law. I agree with him that there are but two things to be shown: first, what the

old books call the *factum*, and, secondly, what the same old books call the *animus*. What is the *factum*? It is residence. What is the *animus*? It is intent to stay. Now in point of law you can add nothing to these. You may argue till doomsday, you may cite authorities without number, but you can add nothing to these two simple requirements, residence and intent.

MR. THURMAN. Will the Senator allow me to interrupt him?

MR. SUMNER. Certainly.

MR. THURMAN. As he has referred to my statement of the law, I will say that I did state that those were the two things necessary, residence and intention, — that you want to find out what is residence that creates inhabitancy, and what is intention that creates inhabitancy; and what I said was, and I maintain yet, that a residence which is enforced is no residence, and an intention that the party has no power to execute so long as he remains in the Army is no intention at all: an intention that the party has no power to execute has no virtue whatever.

MR. SUMNER. Very well, — I will come to that. The Senator and myself agree that in point of law there are two things to be established, and only two, — residence and intent. The question that remains is one of evidence; it is not a question of law. If the Senator were on the bench, which he once adorned, he would be obliged to charge the jury in this way. The rule of law is positive. All that remains comes under the head of evidence. Now I say by law you must show those two things, residence and intent, and you cannot add to either a tittle.

On this occasion, the most important requirement is

that of intent. This is the requirement that has been most argued. And here I go back to that original Latin phrase which dominates this case, and which is in itself an all-sufficient rule: I mean the *animus manendi*. Why is this phrase, so often repeated, handed down for successive centuries? Simply because, like maxims of law, or like proverbs, it contains in one short phrase a rule. You have there a chapter of jurisprudence, if you please, or a volume. It is the mind, or the intent to remain, which governs. This is all that the law says. The law does not go forward and require, as the Senator from Illinois has argued to-day, that there must be an act. You find no such requirement in the rule. The rule is explicit, precise; and here I challenge contradiction. It is simply the intent to remain, the *animus manendi*. Step beyond that and you are lost, if you undertake to state the law. There is no rule of law outside of this simple sum-total.

I come, then, to the point that we have before us, simply a question of intent. I might cite authorities here. I have some of them before me. I will read one. For instance, here is Vattel, quoted by Judge Story in his article on DOMICILE in the "Encyclopædia Americana," which Senators familiar with this subject know is of authority: —

"Vattel seems to define it to be a fixed residence in any place with an intention of always staying there."[1]

On this Judge Story very properly remarks: —

"This is not quite accurate. It would be more correct to say that that place is the home or domicile of a person in

[1] "Le domicile est l'habitation fixée en quelque lieu, dans l'intention d'y demeurer toujours." — *Le Droit des Gens*, Liv. I. ch. 19, § 218.

which his habitation is fixed, without any present intention of removing therefrom."

Here are words completely applicable to the case now before us. The learned author then proceeds to say: —

"It is often a mere question of intention."

And then adds: —

"The mere dwelling or residence in a place is not of itself sufficient to make it the domicile of the party. He must be there with the intention of remaining, *animo manendi*."

Mark the old recurring phrase, with its light and limitation. Here again I say is the rule. You cannot go outside of it. If you go outside of it, you are lost. I am speaking of the rule of law. I know that there can be no addition to that, because, if you do undertake to add to it or to take from it, you must depart from the jurisprudence of every civilized country, — not only of our own country, not only of England, but of every civilized nation on the continent of Europe. In the jurisprudence of every one of those countries you will find this same distinct, precise, simple rule.

Now, Sir, allow me to say, — I say it with entire respect, — the confusion in this debate has arisen from confounding the rule of law with the evidence under that rule. The rule, I say, is precise, that there must be intent. But how shall the intent be proved? Sometimes in one way, sometimes in another; sometimes by long-continued residence, — by purchase of property, — by the establishment of a home, — by the establishment of a place of business, — by all those circumstances and incidents which show fixity of purpose. All this comes under the head of evidence. It does not touch the rule of law behind.

The Senator from Illinois says there must be an act. Allow me to say that words are sometimes acts, and especially if associated with important events. It is a familiar phrase of law that language enters into what we call the *res gestæ;* language is welded into the transaction and becomes a part of it. Words then become things; and when were words more things than when the commanding general in Mississippi distinctly declared his purpose to resign his commission in the Army of the United States and accept a nomination as Senator? Here was a declaration constituting part of the *res gestæ,* and in itself an act.

I am not speaking merely on theory. I have in my hand a case, which I think, when I read it, you will see is applicable: I refer to Metcalf's Reports, volume three, page 200, the case of *Kilburn* v. *Bennett.* In the statement of facts is the following passage:—

"For the purpose of showing with what intent the defendant went to Tyngsborough on the 27th of April, he offered to prove that about three weeks before that day he told S. Shattuck, in whose house he then resided, that he should leave Groton before the 1st of May, and remove with his family to Tyngsborough, to reside at his brother's, and make his house a home, until he should go to Illinois. But the judge ruled that the evidence was inadmissible, and rejected it."

The case was carried before the full bench, when the ruling of the judge below was set aside, and the Court observed as follows:—

"The Court held that this, being the mere declaration of the defendant, was not competent evidence in his favor, and it was rejected. The general rule undoubtedly is, that a party cannot give in evidence his own declarations in his favor,

unless they accompany some act, and are a part of the *res gestæ*. But it appears to us that the declarations offered to be proved are within the qualification of the rule. They were made in the ordinary course of business, and in relation to the defendant's removal, and they were made to the owner of the house in which he was at the time residing. This giving notice of his intended removal is to be considered an act which he might prove in any case in which it became material; and if so, all that he said explanatory of his intention in relation to his removal seems to us to be admissible in evidence."

Now on the authority of this case it seems to me that the declaration of General Ames, accompanied by the acceptance of candidacy as a Senator, is clearly an act. But I do not argue that the Senate is now bound by any technical rule of this kind. It is enough if the Senate is satisfied with regard to his intent on the evidence adduced. No rule of limitation or exclusion can prevail. If the Senate believes that he had at the time the *animus manendi*, it must act accordingly.

Is the Senate, on the evidence before it, — without the application of any technical rule of evidence, without recognizing his declaration as part of the *res gestæ*, — is the Senate satisfied that at the time named he intended to reside in Mississippi? This is the whole case. On this question of fact each Senator will judge for himself, on the evidence before him. This evidence I will read in the Report of the Committee, being the language of General Ames in a written statement to them, as follows: —

"A number of persons in Mississippi visited this city to find arguments by which I might be influenced to become a candidate. I hesitated, because it would necessitate the

abandonment of my whole military life. Finally, for personal and public reasons, I decided to become a candidate and leave the Army. My intentions were publicly declared and sincere."

On which the Committee remark:—

"The intentions thus declared were not only to become a candidate for the Senate, but to remain and reside in Mississippi."[1]

Sir, what more can you ask? On the report of your own Committee you have explicit evidence of the intent of General Ames to reside in Mississippi; and where intent is enough, you need add nothing to it. There is no necessity for any act beyond this declaration, which, as I have already said, is in itself an act, as the Senator from Michigan [Mr. HOWARD] says, taken in connection with his personal presence on the spot,— and I would add, taken in connection with all the necessary implications from his position, and from his acceptance of the candidacy. This is not a case in a justice's court, or even in a county court. This is the Senate of the United States; and we are considering the evidence with regard to the declarations of a gentleman already chosen by a State of this Union to take his seat among us. We cannot apply to these declarations any technical rule which possibly might be applied in an inferior tribunal. We are to look at the case in its essence, and, if satisfied of the intent, we cannot go further. The Senate does not sit in chains. It may act according to its conscience on the evidence, without any constraint, except from the rule of law requiring intent.

[1] Senate Reports, 41st Cong. 2d Sess., No. 75, p. 2.

Much stress has been laid upon the fact that General Ames held a commission in the Army of the United States, and was actually the military commander and provisional governor of Mississippi. What then? Does this affect his position now? Is a soldier or officer in the Army, is the commander of an army, shut out from the same privileges that belong to you, Sir, and to me? Each of us may change his domicile as he pleases, and to-morrow or next week transfer his home to another State of the Union, and nobody can say, No. Has the soldier or the officer fewer rights than you and I have? I think not; and I am sure that both reason and authority sustain my conclusion. I have in my hands a volume of the California Reports, — the twenty-eighth volume. I call attention to the case of *The People* v. *William Holden*, and I will not trouble you with anything more than one clause from the marginal note, as follows: —

"*Residence while in the service of the United States.* — The clause in the Constitution of this State, which declares that 'no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States,' does not prevent a person who removes to a county while in the service of the United States from acquiring a residence in that county while in the said service, if it is his intention so to do."

"If it is his intention so to do." These words are strictly applicable to the case of General Ames. There was nothing in his service in Mississippi, nothing in his high military command, to prevent him from establishing an inhabitancy in that State, if it was his intention so to do.

Thus at every point are we brought back to the single rule of law and the evidence under it, — the rule being that there must be an intent to remain, and the evidence being open to the judgment of the tribunal before which the question is raised. Especially must this be the case with the Senate, which will look through all technicalities, all cobwebs, to find the truth. Nor can the Senate be so unjust to any class of citizens as to say that a military commander may not acquire inhabitancy in a State where he is fixed by military duties, provided he so intends. All the adverse presumptions from military residency will be overcome at once by the *animus manendi*, so soon as this is proved.

Do you remember, Sir, a pointed remark made by Lafayette in the French Chamber, shortly after Louis Philippe was crowned King? Astonishment was expressed that the great defender of Liberty should espouse the cause of a Bourbon and help him to the throne. Lafayette, with remarkable condensation of phrase, replied, that he was in favor of Louis Philippe, not *because*, but *notwithstanding* he was a Bourbon, — "not *because*, but *notwithstanding*." And in this famous saying of the great French-American you have terms strictly applicable to this case. General Ames, soldier, officer, military commander in Mississippi, became an inhabitant thereof, not *because*, but *notwithstanding* he was soldier, officer, and military commander.

A resolution of the Committee on the Judiciary, declaring General Ames "not eligible," was on motion of Mr. Sumner amended by striking out the word "not," — Yeas 40, Nays 12, — and thus amended was agreed to without a division.

RATIFICATION OF THE FIFTEENTH AMENDMENT.

SPEECH AT A SERENADE BEFORE MR. SUMNER'S HOUSE IN WASHINGTON, APRIL 1, 1870.

THE occasion was the promulgation by the Secretary of State of the ratification of the Fifteenth Amendment to the Constitution. A large number of citizens, after calling upon the President and Vice-President, by whom they were addressed, proceeded to the house of Mr. Sumner, who appeared with his friend, Mr. James Wormley, and spoke as follows: —

FELLOW-CITIZENS, — I congratulate you upon the great result that has been accomplished. For years my hope and object have been to see the great promise of the Declaration of Independence changed into performance, — to see that that Declaration became a reality. [*Cheers.*] This at last is nearly consummated. I do not say entirely consummated, for it is not.

It is my nature, fellow-citizens, to think more of what remains to be done than of what has been done, — to think more of our duties than of our triumphs; and only to-day I have heard from Philadelphia of a decision in a court of justice that a person of foreign birth could not be naturalized in this country because of color. This is in pursuance of one of those old statutes of the days of Slavery, before the word "white" was stricken from the laws. Repeatedly, from my seat in the Senate, I have made appeals for the expunging

of that word from the laws. I have now a bill before the Judiciary Committee to strike this word from our naturalization laws. What the Committee will do remains to be seen. I need not say that I shall try to impress upon the Senate the importance of passing this bill. It remains also, that equal rights should be secured in all the public conveyances and on all the railroads in the United States, so that no one shall be excluded by reason of color.

It further remains that you here in Washington shall complete this equality of rights in your common schools. You all go together to vote, and any person may find a seat in the Senate of the United States; but the child is shut out of the common school on account of color. This discrimination must be abolished. All schools must be open to all, without distinction of color. In laboring for this, you will not only work for yourselves, but will set an example for all the land, and most especially for the South. Only in this way can your school system be extended for the equal good of all. And now, as you have at heart the education of your children, that they may grow up in that knowledge of equal rights so essential to their protection in the world, it is your bounden duty here in Washington to see that this is accomplished.

Your school system must be founded on Equal Rights, so that no one shall be excluded on account of color. In this way Human Rights will be best established. And I would remind you, although this has not been effected, the victories already gained are the assurance that all that should be done will be done.

You have progressed, step by step, until you have reached your present position; and now it only remains

that you should continue to the end earnest, faithful, and determined; then will the work be completed.

Returning you my sincere thanks, and offering my felicitations on this occasion, I bid you good night.

ADMISSION OF GEORGIA TO REPRESENTATION IN CONGRESS.

SPEECH IN THE SENATE, APRIL 5, 1870.

REPRESENTATIVES from Georgia had been admitted to seats in Congress in July, 1868, under the Act of June 25th of that year; but the subsequent action of her Legislature in expelling its colored members and filling their places with whites, and the continued outrages upon loyalists, had the effect of preventing the admission of her Senators, and in the next Congress of excluding her from representation altogether, — involving the necessity of measures for her reconstruction and admission anew. The first of these was the Act of December 22, 1869, providing, among other things, for the reorganization of the State Legislature, by reinstating its colored members in their seats and purging it of its disloyal elements. To this succeeded a bill in the same terms with the Acts for the admission of Virginia and Mississippi, which was passed in the House with the following amendment, moved by Mr. Bingham, of Ohio: —

"*Provided*, That nothing in this Act contained shall be construed to vacate any of the offices now filled in the State of Georgia, either by the election of the people or by the appointment of the Governor thereof by and with the advice and consent of the Senate of said State; neither shall this Act be construed to extend the official term of any officer of said State beyond the term limited by the Constitution thereof, dating from the election or appointment of such officer, nor to deprive the people of Georgia of the right under their Constitution to elect Senators and Representatives of the State of Georgia in the year 1870; but said election shall be held in the year 1870, either on the day named in the Constitution of said State or such other day as the present Legislature may designate by law."

In the Senate, after several days' discussion of this proviso, as in Committee of the Whole, Mr. Wilson, of Massachusetts, moved a substitute of opposite character, as follows: —

"*Provided*, That, in consequence of the failure of the General Assembly of Georgia to perfect a legal organization for a period of over eighteen

months, it be, and hereby is, declared that the term of service of the said General Assembly shall date from the 26th of January, 1870, and shall continue until the persons to be chosen on the Tuesday after the first Monday of November, 1872, as members of the General Assembly of said State, are qualified: *Provided*, That the last clause of the second subdivision of the first section of the third article of the Constitution of Georgia, in the following words, 'The General Assembly may by law change the time of election, and the members shall hold until their successors are elected and qualified,' shall never be by any Legislature exercised so as to extend the term of any office beyond the regular period named in the said Constitution; and the said General Assembly shall by joint resolution consent to this fundamental condition before this Act shall take effect."

April 5th, Mr. Sumner spoke on the pending question as follows: —

MR. PRESIDENT, — Whatever its result, this debate will be ever memorable. For the first time the African has pleaded in this Chamber.[1] But the curious observer cannot fail to note that he was obliged to plead still for his long-oppressed race. The Senator from Mississippi sits among us, and speaks; but the battle is not yet won. Slavery still asserts her ancient predominance, finding strange voices. No longer is the claim made directly. Nothing is said of Slavery, but the old cause is defended under an *alias*. It is now State Rights which are invoked, or it may be alleged irregularities, — as if State Rights or any irregularities could prevail against the sovereign duty of Congress to see that Georgia is so organized that good people shall be protected in their rights. To this end all else must be tributary, while every pretext of State Rights and every allegation of irregularity are of less consequence than the breath with which they are urged.

It is sad that the Senator from Mississippi should be

[1] March 16th, Mr. Revels, the recently admitted colored Senator from Mississippi, made an eloquent speech in opposition to the Bingham Amendment.

doomed to encounter this spirit. As he entered the Chamber, the evil genius should have departed; but it is not so. And strange to say, the voices by which it has spoken have been the voices of friends. But so it has been always. How often in other days have the opponents of Slavery been saddened by encountering the voices of friends! The argument of technicality is always at hand, as the well-seasoned weapon of the lawyer, — and this debate is no exception.

I had hoped that this question would be decided without debate, at least on our side, — in short, that all would appreciate the exigency, and unite harmoniously in applying the remedy. I am disappointed. But I shall say very little. Feeling as strongly as I do, and seeing the way as clearly as I do, I cannot be entirely silent.

The case is very simple. From unquestionable evidence it appears that Georgia, while still in transition from the old to the new, while still in process of Reconstruction, and before the work is completed, has lapsed into a condition of insecurity and uncertainty, so that, without the intervention of Congress, the people cannot be assured in the enjoyment of their rights.

This is the broad statement, which is confirmed by the present as well as the past. By an unparalleled audacity colored citizens were expelled from the Legislature simply on account of color, while the orgies of the Ku-Klux-Klan prevailed throughout the State. And now this same Ku-Klux-Klan continues its terrors, while former Rebels threaten to regain their pernicious power. The State is in peril. I do not use too strong language. All evidence is at fault, if it be not as I say. To allow these Rebels to prevail is to sacrifice Re-

construction, and to offer up the Unionists, white and black. It is to do a deed of shame and desertion. Are you ready for this degradation? Shall Congress descend to this vileness?

Again I use strong language; but only in this way can I picture the enormity which is now proposed. Among national obligations which cannot be declined or postponed, and which rest primarily on Congress, is the duty of protecting Reconstruction. *Show that Reconstruction is in peril, and you must act.* Now that it is in peril there can be no question. Concurring testimony from opposite quarters, public acts, and open menace, all attest the condition of Georgia. Others in this debate have entered into details. I give you the irresistible, unanswerable conclusion.

And here occurs the Bingham Amendment, which, however intended, is only an engine of Rebel power. This is its true character, and nothing else. Howsoever it may seem, it must be regarded in its consequences. We must look from the word to the thing. It is not enough to see how it reads; we must see how it works. According to its text, the present Legislature, whose natural existence has been changed by wrongful addition and wrongful subtraction proceeding directly from the old Rebellion, is terminated at a specified day in the coming autumn, and a new election is ordered, without taking into consideration the past or the future, — without considering that thus far it has sat as a provisional Legislature only, although chosen to sit under the State Constitution, — without considering how it has been despoiled of its legislative character and just rights by hostile influence, and how a new election will be a direct appeal to this same hostile influence, giving to

it a letter of license and unloosing the Ku-Klux-Klan. The Bingham Amendment is in few words, but they are words of despair to the loyal men of Georgia, and words of cheer to the disloyal.

I have listened to the arguments in its favor. Do I mistake, when I say that they all resolve themselves into technicality? At one moment we have allegations of "irregularity," and at another of "estoppel"; and such technicalities play their part, while the good people of Georgia are sacrificed. We are estopped, so it is said, by the Act of December 22, 1869, which, failing to provide for the re-performance of certain conditions-precedent, recognized the validity of the legislative acts by which they had been performed. Very well, — suppose the legislative acts are recognized as valid, what then? Because the ratification of the Constitutional Amendments is recognized, does it follow that Congress is thereby "estopped" — such is the word — in completing the work of Reconstruction? I cannot comprehend this reasoning. It would be of value in a county court, but it is out of place in the Senate of the United States, on a question of Reconstruction. To my mind, all this is a matter of supreme indifference. The powers of Congress are above any such incident, and nothing has occurred to impair them in any way. They exist now as at the beginning, awaiting the discretion of Congress.

Do you ask where these powers are found? Of course, in the two Constitutional Amendments already proclaimed, — being ample sources, if none others existed. Out of these Congress is authorized to do all that is needed to enforce Emancipation and to protect the rights of the citizen. This is plain, very plain.

But there are three other sources, each of which is overflowing. The first is from the necessity of the case, *ex necessitate rei*. This is one of the grounds on which Chief-Justice Marshall asserted the power of Congress over the Territories;[1] but it is equally applicable in the work of Reconstruction. From the necessity of the case this power must be in Congress, as without it Reconstruction could not be completed. You must renounce Reconstruction or recognize this power.

Then comes the "guaranty" clause, which is another bountiful, all-sufficient fountain. The United States are to guaranty a republican form of government to the States. But this guaranty can be executed only through Congress. This clause is at once old and new. It is old as the Constitution itself, but it is new in its practical exercise. And the reason is obvious. So long as Slavery prevailed, this mighty power slept; but it was the sleep of a giant. At last it has awaked, never again to sleep or slumber. From this time forward the duty of the nation to guaranty a republican government to all its parts will be constant and ever-present; and this duty is reinforced by all needful powers. The guaranty is continuing and perpetual, and it must be executed at all hazards. In its execution Congress must fix the definition of a republican government. How often have I said this! — but I shall not fail to repeat it so long as the occasion requires. To Congress belongs the duty of determining what is a republican government, and then it must see that such a government prevails in every State.

If in any State the existing government fails according to the just standard, or if it is in any way menaced,

[1] American Insurance Co. *v.* Canter: 1 Peters, S. C. R., 542.

then must Congress interfere to execute the sleepless guaranty. And in this interference it may act according to its discretion, determining the occasion and the "means" to be employed. It may act by repression or by precaution, and it may select any "means" proper for the purpose. To say that it may not act by precaution as well as by repression is contrary to reason, and I may say to common sense. Whatever may be done by repression may be done by precaution also. Such is the experience of life in other things, and this obligation of guaranty is subject to the universal law. In the selection of "means" the whole field and the whole arsenal are at its command. Not an instrument, not a weapon, proper for the purpose, which it may not grasp. Here the language of Chief-Justice Marshall, so often quoted, harmonizes with the claim of power which I now make: —

"The Government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception."[1]

In our recent debates able Senators have denied everything. They will not concede the "means"; and they even ignore this great clause, which, as Cicero said of the ancient *Senatusconsultum*, has rested so long like a sword in its scabbard.[2] But there it is. Senators

[1] M'Culloch *v.* The State of Maryland: 4 Wheaton, R., 409.

[2] "Habemus . . . . Senatusconsultum, verumtamen inclusum in tabulis, tanquam gladium in vagina reconditum." — *Oratio I. in Catilinam*, Cap. 2.

may ignore it; they may not see it; but there it is in the Constitution. In attempting to belittle this clause Senators only show how little they appreciate the lofty unity of the Republic. Other clauses are important in the machinery of government; but this guaranty makes the Republic one and indivisible, being One out of Many, and places the rights of all under the protecting power of the nation.

Before the extinction of Slavery, State Rights were successful against this guaranty. To invoke this tyrannical pretension was enough. How often was it heard on this floor! How completely did it dominate the Constitution itself! But the habit still continues, and we are still compelled to hear this same pretension, under which States *played the turtle*, drawing head, legs, and tail all within an impenetrable shell. With the overthrow of the Rebellion on the bloody field this pretension should have been abandoned and forgotten. A State is not a turtle, which can shut itself within its shell, and enjoy its own separate animal existence; but it is a component part of this great Republic, with which it is interlaced and interlocked so as to share with every other State a common life, subject to one and the same prevailing law. To insist that a State can play the turtle now, as in the days when Slavery ruled, is to dishonor the Constitution, and to abandon the crowning victory over the Rebellion.

Do you ask for the power in the Constitution to enter into a State and establish republican government? I give it to you in an immortal text. To question it is to show an ignorance of language which in this case is clear beyond criticism, and an ignorance also of the true genius of American institutions, where unity of

rights is the Alpha and the Omega. The national motto, *E Pluribus Unum*, is another expression of that great unity by which the States are lost in the Nation. And this guaranty I now invoke for the protection of the good people of Georgia, and for the protection hereafter of Human Rights, when imperilled anywhere within the limits of the Republic.

But there are other and exceptional reasons why Georgia is still within the control of Congress. The process of Reconstruction in this State is not yet completed; so that the government there is simply provisional, and nothing else. This is only according to the Reconstruction Act of March 2, 1867, where it is provided, —

"That, until the people of said Rebel States shall be BY LAW admitted to representation in the Congress of the United States, *any civil governments which may exist therein shall be deemed provisional only*, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same."[1]

Nothing can be more explicit. Until the people of the Rebel States are "by law" admitted to representation, they are under the power of Congress. Everything done is inchoate, and nothing more. But Georgia is not yet "by law" admitted to representation, and we are now considering when and how such admission shall take place. Meanwhile, according to express language of the Act, the government is "provisional only." Nor is this all; for the Act proceeds to declare further that this government is "in all respects subject to the paramount authority of the United States at any time to

[1] Statutes at Large, Vol. XIV. p. 429.

abolish, modify, control, or supersede the same." Words cannot be stronger. "Abolish," "modify," "control," "supersede." To argue against their plain meaning is simply ridiculous. To insist that the existing government is beyond the reach of Congress, to be extended or abridged, to be recognized or superseded in its discretion, is preposterous. The power is reserved in terms almost excessive in fulness. Therefore do I say there can be no question of power on the present occasion. As well question that the sun shines or the river flows.

There being no question of power, there arises, then, the obligation of duty. Congress has the power to protect republican institutions in Georgia, and to protect the good people there; and it has the further power to superintend the work of Reconstruction to the end. All this it must do. It cannot abandon the appointed work. Of course it will ascertain the exact condition of things, and will then apply the remedy. No excuse of State Rights, no fine-spun technicality, no plea of irregularity, no argument of "estoppel" can be heard. All these are trivial and unworthy against the commanding duty. Georgia must be saved to herself and to the Union, and Congress must supply the means.

Several courses are open to Congress, and all equally within its powers; for all are derived from the same fountains.

1. Georgia may be remanded for an indefinite period to a condition like that of the Territories, subordinate in all respects to the jurisdiction of Congress, which may meanwhile mould it into loyalty and order.

2. Or the State may be subjected to a military government, until such time as it is fit in every respect for self-government.

3. Or the existing provisional government may be invested with the powers of the State, in such form and way and for such term as Congress in its discretion shall think best.

I doubt not that there are other modes within the jurisdiction of Congress; but these are all contained substantially in the three I have named.

It is not now proposed to remand Georgia to a territorial condition, or to subject the State to a military government. But it is proposed to place it in charge of the existing provisional government, which is to continue for a full constitutional term; and this is done as the best way of guarding against disturbing forces from the late Rebellion. It is said that this will be sufficient. I hope that it may be. I am satisfied that it is the least Congress can do in the exigency. Anything short of this will be the betrayal of those who have a right to our protection.

Against this simple and moderate proposition is interposed the Bingham Amendment, which, however plausible in form, is destructive in consequence. It is enough that it hands over the State to misrule and violence. Senators, how can you do this thing? How can you hesitate to take every heed and precaution against even the possibility of such an occurrence? You have the power. Then must you exercise it. In the recent history of Georgia nothing can be adduced to make you hesitate. On the contrary, all things, when properly understood, conspire to constrain the exercise of this power.

How feeble is the argument, that, *because* Governor Bullock was chosen Governor and the Legislature commenced its session at a given date now past, therefore in this process of Reconstruction the constitutional term

of the Governor and of the Legislature must be limited to two years from that date! Besides ignoring all the controlling powers of Congress, this assumption ignores also the conduct of this very Legislature by which its organization was for a while defeated. Nothing is clearer than that the termination of the provisional government in Georgia was contingent on the performance of certain covenants, express and implied. These covenants have been outrageously violated. The very form of government underwent a change when persons clearly ineligible from disloyalty were allowed to take part in it, while citizens entitled to equal rights, and especially protected by the Reconstruction Laws, were tyrannically ejected from the Legislature. There was for the time being a usurpation. Had this violation of underlying covenants been anticipated, Reconstruction would have been postponed. No Senator will pretend the contrary. But Congress, in view of what has occurred, may justly do what it would have done, had it anticipated the result. It may postpone Reconstruction, — treating the Legislature meanwhile as provisional, and recognizing its acts only so far as in the judgment of Congress they are fit to be recognized.

If instruction be needed on this point, it will be found in the authoritative words of publicists, showing how even the terms of a treaty may be disregarded where there has been a change in the form of government.

Thus, Vattel does not hesitate to say, —

"It may say, upon a good foundation, that it would not have entered into an alliance with that nation, had it been under the present form of government."[1]

[1] Law of Nations, Book II. ch. 12, § 197.

One of our own publicists, Alexander Hamilton, has dealt with the same question in congenial language: —

"Contracts between nations, as between individuals, must lose their force where the considerations fail.

"A treaty pernicious to the state is of itself void, where no change in the situation of either of the parties takes place. By a much stronger reason it must become voidable at the option of the other party, when the voluntary act of one of the allies has made so material a change in *the condition of things* as is always implied in a radical revolution of government."[1]

We but follow the simple principles of these texts, when we declare that the outrage perpetrated in Georgia so far changed the condition of things that the Legislature lost all title to recognition by Congress. It ceased to be the Legislature contemplated by Congress. Nor was it the first regular Legislature contemplated by the State Constitution. It was irregular, abnormal, revolutionary. To recognize such a body as the first regular Legislature is a fraud on the State Constitution. To insist that members chosen as the first regular Legislature shall be treated as provisional only is unjust to them. To insist that such members shall be despoiled of the regular term is a direct surrender to the disorganizers, who will rejoice to see Congress sacrifice the true men to whom it owes protection. To my mind there can be no surer rule than so to act that these disorganizers shall not rejoice. Especially will I not please them at the expense of patriot citizens.

In the exercise of this power Congress is acting on

[1] Hamilton to Washington, April, 1793, — Cabinet Papers: Works, ed. J. C. Hamilton, (New York, 1851,) Vol. IV. p. 368.

principles of Equity. And here allow me to say, that, in superintending the process of Reconstruction, Congress is a Court of Equity, bound to supply deficiencies in the existing law, to enjoin against threatened wrong, and generally to see justice done in spite of technicalities. Here I only follow the best definitions of Equity from the earliest times. No student can forget that profound definition by Aristotle,[1] adopted by Grotius[2] also, — "Equity is the correction of that wherein the law by reason of its universality is deficient"; nor can he forget the phrase of Lord Bacon, when he gives it a higher character still, namely, "The general conscience of the realm, which is Chancery."[3] These two philosophers were each right; for Equity is at once a correction of law and the voice of conscience. In conformity with these principles, an ample jurisdiction has been established, under which, among other things, the powers of ordinary courts are supplemented by more flexile methods, the rules of law are prevented from becoming instruments of injustice, persons are restrained from asserting doubtful rights in a manner productive of irreparable damage, and, in the absence of positive law, universal justice is maintained. It has been a constant aspiration to bring Law and Equity into harmony. Lord Chancellor Eldon relates that on one occasion Lord Chief-Justice De Grey said, he "never liked Equity so well as when it was like Law"; and he adds, "The day before I heard Lord Mansfield say he never liked Law so well as when it was like Equity."[4]

[1] Nicomachean Ethics, Book V. ch. 10, § 7.

[2] De Æquitate, Cap. 3.

[3] Reading on the Statute of Uses: Works, ed. Spedding, (London, 1859,) Vol. VII. p. 401.

[4] Dursley *v.* Berkeley: 6 Vesey, Ch. R., 260.

In the same spirit, Bishop Burnet says of Sir Matthew Hale: —

"As great a lawyer as he was, he would never suffer the strictness of law to prevail against conscience; as great a chancellor as he was, he would make use of all the niceties and subtilties in law, when it tended to support right and equity."[1]

Such is Equity, and such are the principles which preside in its courts. No strictness of law can prevail against conscience. The niceties and subtilties of law are all to be used in support of right and equity. These noble and authoritative rules are a pathway of light. Against all strictness of law conscience must prevail. If there are niceties and subtilties in the law, let them all be employed on the side of right and equity. That is according to reason and the harmonies of the Universe. It is Equity.

Am I not right, when I now insist that Congress is a High Court of Equity with Georgia at its bar? It only remains that it should apply the principles of Equity, especially supplying deficiencies in the existing law, enjoining against threatened wrong, and seeing that justice is done,—all technicalities to the contrary notwithstanding. Against all strictness of law conscience must prevail; and if there are niceties and subtilties in the law, they must all minister to the completion of Reconstruction. To this end, the process of Congress must go forth in such form as will best establish peace and security in that State under the safeguard of equal laws. With the execution of this process Georgia will be a republican government in reality as in name.

[1] Life and Death of Sir Matthew Hale, (London, 1682,) p. 106.

The assertion of this power is necessary now, not merely for Georgia, where it will bring peace and security, but also for the Nation, which will be elevated in character and strengthened in that unity against which the Rebellion dashed itself in battle. An ancient sage has left in perpetual testimony, that the best government is where an injury to a single citizen is redressed as an injury to the whole nation. In harmony with the saying of the sage is the fundamental law that protection and allegiance are reciprocal, so that the Nation owes protection in exchange for the allegiance it receives. The duties of the Nation are correlative with the duties of the citizen. Are we a Nation? Surely we are not, if any State can without correction deny Equal Rights within its border, or in any way imperil the tranquillity of the Republic. There was a time when all this might be done with impunity, — when a State was permitted to exalt itself above the Nation, — when a State determined for itself the standard of Human Rights, — when there was one rule of citizenship at Boston and another at New Orleans, and as many different rules as there were States, — when State Rights were made the protection for all that a State chose to do, and the turtle, with its impenetrable shell, was the prototype of a political community constituting part of the Nation. But this time has passed. A State can no longer play the turtle; State Rights have ceased to be a protection for all that a State inclines to do; there can be but one rule of citizenship in all the States, being the same in Boston and New Orleans; no State can determine for itself the standard of Human Rights; no State can exalt itself above the Nation; nor can any State without correction deny Equal

Rights within its borders, or in any way imperil the tranquillity of the Republic. The judgments of courts, the arguments of Senators, with all possible learning and all possible skill, are impotent against that prevailing law which places the National Unity and the Equal Rights of All beneath the safeguard of the Nation. There they will remain from this time forevermore, making the Republic more than ever an example to mankind.

After various amendments, the bill was finally taken into a new draft, leaving the questions presented in the Bingham Amendment to the determination of the State Constitution, and in this form passed both Houses without a division.

INCOME TAX.

REMARKS IN THE SENATE, APRIL 7, 1870.

THE Senate having under consideration a Joint Resolution from the House, with an amendment by the Committee on Finance, declaratory of the meaning and intention of the law relating to the Income Tax, Mr. Sumner said, —

I SHALL make no opposition to the amendment of the Committee on Finance, as I understand it is to relieve the Department from a difficulty which has arisen in the interpretation of a statute; but I desire to say now — and I take this earliest opportunity — that I think the income tax ought not to be continued any longer.

MR. CONKLING [of New York]. Reëstablished, you mean.

MR. SUMNER. Very well; I accept the amendment of the Senator from New York: it ought not to be re-established.

MR. SCOTT [of Pennsylvania]. It has expired.

MR. SUMNER. It has expired. There was an understanding, when it was established, that it should live only into the year 1870. It has now reached its natural death, and no resurrection ought to operate upon it. An income tax is a war tax. It ought not to be made

a peace tax. "The medicine of the Constitution should not become its daily bread." I am against the continuance of this tax; and if the occasion required, I would go forward and assign reasons. But I am unwilling now to enter into any general discussion of the question, as it is not directly presented by the proposition before the Senate; but I hope the Senator from Ohio [Mr. SHERMAN], who has charge of this bill, and is Chairman of the Finance Committee, will bear in mind the radical objection to any reëstablishment of this tax, and will also bear in mind another important proposition, — that the taxes of the country must be reduced. I have on another occasion, and more than once, said, "Down with the taxes!" — and I repeat the cry now. We cannot do better than to begin with a tax inequitable in its operation, and which, according to the original understanding when first adopted, was to end now.

After further debate, in which different Senators participated, Mr. Sumner spoke again, as follows: —

MR. PRESIDENT, — I should not have said another word but for the very confident statement made by my friend, the Senator from Ohio, that at a proper time he will show the fairness of this tax. Sir, if he can show its fairness, he will do what no person before him has ever been able to do, — what no speaker in Parliament, no speaker in Congress, no writer on taxation or political economy has ever been able to accomplish. The Senator assumes in advance a very considerable task. Let me commend him to the candid, absolutely impartial, and authoritative words of Mr. McCulloch, in his work on Taxation and Funding. We all know the authority of this writer; none better can

be adduced. A committee of this body might be well satisfied, could it have the sanction of this writer. Now what does he say of the tax on income? One would think he had listened to my honorable friend on this question. Of its effects he says:—

"It would no doubt have the supposed effects, [*i. e.* be successful,] could it be fairly assessed. But the practical difficulties in the way of its fair assessment are not of a sort that can be overcome. And the truth is, that taxes on income, though theoretically equal, are in their practical operation most unequal and vexatious."[1]

MR. SHERMAN. Read the paragraph immediately before that, in which he speaks of the theory of an income tax.

MR. SUMNER. I should rather read a paragraph after it, with the permission of the Senator. [*Laughter.*] I have read the chapter, and I understand it; and there are words here to which I call the attention of my friend:—

"After the Legislature has done all that can be done to make it equal, it will be most unequal."

Strong language that!

"To impose it only on certain classes of incomes, or to impose it on all incomes, without regard to their origin, is alike subversive of sound principle. Nothing, therefore, remains but to reject it, or to resort to it only when money must be had at all hazards, when the ordinary and less exceptionable means of filling the public coffers have been tried and exhausted, and when, as during the late war, Hannibal is

[1] Treatise on the Principles and Practical Influence of Taxation and the Funding System, (2d edit., London, 1852,) p. 120.

knocking at your gates, and national independence must be secured at whatever cost. An unreasoning necessity of this sort is the only satisfactory justification of taxes on property and income."[1]

This is the voice of Science. It is not the voice of a political partisan, or of the representative of any Administration anxious to establish a system of taxation, but it is the voice of Science itself, speaking by one of its — I may say chosen authorities. How can this testimony be answered? If you come back to an authority of a different character, take a statesman. The Senator from California [Mr. CASSERLY] has referred to Sir Robert Peel, who is known as the modern author of the income tax; but he has left his testimony behind. I quote words from different speeches, showing how he has characterized it. He admitted that it was "a tax which had hitherto been reserved for time of war"; and that "the question of its imposition was, whether the political necessity was of such magnitude and urgency as to justify it"; and then that it "ought to be accompanied by measures of simultaneous relief." Then, "he did not deny that it was an inquisitorial tax"; and again, that "a certain degree of inquisitorial scrutiny was inseparable from an income tax"; and further, that "a good deal of inconvenience inevitably arose from the inquiries that must be instituted into the properties of men, in the imposition of an income tax"; moreover, that "one great objection to the income tax was, that it fell with peculiar severity upon those who were determined to act honestly."[2]

[1] Treatise on the Principles and Practical Influence of Taxation and the Funding System, (2d edit.,) p. 134.

[2] Hansard, Parliamentary Debates, 1842, 3d Ser., Vol. LXI. coll. 909, 913; LXII. 158, 169, 1077.

In harmony with his testimony is that also of Mr. Gladstone, named by the two Senators who have preceded me. The Senator from Ohio reminds us that Mr. Gladstone has sustained an income tax. Have we not all sustained an income tax?

Mr. SHERMAN. He does it this very year.

MR. SUMNER. This very year, and why? The Senator knows perfectly how England is pressed by taxation, — how difficult it is to find objects for taxation in order to meet the great demands upon her exchequer. He knows that England is obliged now, in time of peace, to meet the responsibilities of war. It is on account of that terrible war debt which still hangs over her, the interest of which must be annually paid, that she is obliged to assume even in a period of peace this responsibility. I think we are in no such condition. Our war is happily over, and I know no reason why the responsibilities and obligations assumed during that period should be prolonged now during the reign of peace. Sir, let us put an end to the war. And I know no better way to give our testimony to the end of the war than by stopping that taxation which was born of the war.

MORE WORK TO BE DONE.

LETTER TO THE AMERICAN ANTISLAVERY SOCIETY AT ITS FINAL MEETING, APRIL 8, 1870.

SENATE CHAMBER, April 8, 1870.

GENTLEMEN, — You propose to celebrate the triumph of Equal Rights at the ballot-box, and at the same time to abandon that famous shibboleth by which you once rallied the country against Slavery.

It was said of Wolfe, the conqueror at Quebec, that he died in the arms of Victory; and such will be the fortune of your noble Society. "They run!" was the voice that fell on the ears of the expiring General. "Who run?" he exclaimed. "The enemy," was the answer. "Now, God be praised, I shall die in peace," said he, and his battle ended.

The Antislavery Society may now die in peace. Slavery is ended. But I do not doubt that the same courage and fidelity which through long years warred against this prodigious Barbarism will continue determined to the end in protecting and advancing the work begun.

I do not think the work finished, so long as the word "white" is allowed to play any part in legislation, — so long as it constrains the courts in naturalization, — so long as it rules public conveyances, steamboats, and railroads, — so long as it bars the doors of houses bound by law to receive people for food and lodging, or licensed as places of amusement, — so long as it is inscribed on our

common schools;—nor do I think the work finished until the power of the Nation is recognized, supreme and beyond question, to fix the definition of a "republican government," and to enforce the same by the perfect maintenance of rights everywhere throughout the land, according to the promises of the Declaration of Independence, without any check or hindrance from the old proslavery pretension of State Rights. It must be understood that every State, while perfectly free in its local administration, is subject to the supremacy of the Nation, whenever it touches the Rights of Man,—so that, according to the ancient words of Demosthenes, the law shall be "a general ordinance, *equal and alike to all.*"[1] Let there be Equality before the Law, and all rights are assured. In this cause count me always as your devoted and grateful fellow-worker.

Accept my thanks for the invitation with which you have honored me, and believe me sincerely yours,

CHARLES SUMNER.

TO THE COMMITTEE OF THE ANTISLAVERY SOCIETY.

[1] Contra Aristogeitonem Oratio I., ed. Reiske, (Lipsiæ, 1770,) p. 774. 15.

EDUCATION.

REMARKS IN THE SENATE, MAY 9, 1870.

THE question being on an amendment to the Legislative Appropriation Bill, reducing the appropriation for the Bureau of Education from $14,500 to $5,400, in conformity with a previous reduction of the clerical force, Mr. Sumner said: —

MR. PRESIDENT, — I hope there may be no hesitation in refusing to agree to this amendment. It seems to me that the House of Representatives has acted wisely in increasing the appropriation, and we shall act very unwisely, if we fail to unite with the House. We, Sir, are a Republic; we are living under republican institutions; and, as I understand them, one of their essential elements is Education. Now, Sir, here is an agency associated with the National Government, having education for its object; and what is the appropriation proposed by our excellent committee? It is $5,400: that is all. Looking on the opposite page of the bill, I find an appropriation of $9,000 for stationery, furniture, and books for the Interior Department; I find an appropriation of $16,000 for fuel and lights for the Interior Department; and yet we propose to give only $5,400 to create and support a Bureau of Education! Sir, is that decent? It seems to me, in this age, at this period of our history, when more than ever we are beginning to see the transcendent advantage of education, how much we owe to light, —

"Hail, holy light!" —

it seems to me strange that we should now cut down the appropriation for the Bureau of Education. Turning on, I come to the Department of Agriculture, and there I find an appropriation of $72,170; and then I turn back again to the $5,400 for the Bureau of Education. I think the House did not go far enough, when it made the appropriation $14,500. I would make the appropriation as large as that for the Agricultural Department; and I know full well the period is at hand when all of you will rejoice to make an appropriation for the Educational Bureau twice more than that for the Agricultural Department.

As to the question whether there is any existing statute to sanction this appropriation, I dismiss it entirely. It is merely a technicality; and it ought not now, on this Appropriation Bill, at this stage, after the vote of the House, to be allowed to stand in the way.

Mr. Sherman, of Ohio, supported the amendment as a step toward the abolition of the Bureau, which he regarded as useless, — at the same time urging the withdrawal, for consideration in a full Senate, of a proviso, just voted, for the restoration of the original clerical force; and it being thereupon suggested that the whole matter be passed over till the next day, Mr. Sumner said: —

BEFORE that passes away, I wish to make one comment on a single word of the Senator from Ohio. The Senator said that he hoped we should take no backward step; and yet his speech and his proposition were a backward step. Sir, there is nothing that any State or any nation can do for education that is not for civilization itself; and now the Senator from Ohio is against appropriating a paltry sum of $10,000 for education.

MR. SHERMAN. No, — for two or three clerks.

MR. SUMNER. My friend will pardon me, — for education. He is against making this paltry appropriation for education; and he reminds us that in his great State $3,000,000 are set apart for this purpose. Is it not shameful, that, while $3,000,000 are set apart for this purpose in his great State, so small a sum as is now proposed is to be set apart by the Nation? Am I told that the Nation has nothing to do with this question? Allow me to reply at once, it has everything to do with it; it has more to do with it than the State of Ohio, inasmuch as in the Nation are all the States. Ohio is only one State; all the States compose the Nation; and the Nation is responsible for the civilization of all the States. The Nation is the presiding genius, not only of Ohio, but of all the associate States of the Union. Therefore, Sir, should the Nation by every means in its power, by appropriation, by a department, by a bureau, by clerks, by officers, do everything possible to promote the interests of education.

But the question may be asked, What can it do? With the sum proposed, unhappily, very little, — too little. But let us not give up doing even that little. A little in such a cause is much. If nothing else, information may be accumulated, statistics may be gathered, facts may be brought together, which can be laid before those interested in education all over our own country and in foreign lands. That may be a specific object of the Bureau of Education.

Then, again, it may supply a general impulse to education in every State, — even in Ohio, with its $3,000,000 appropriated to that purpose. Permit me to say, the State of Ohio, great as it is, is not yet above the reach of educational influences; and I am sure that this Bu-

reau, if properly organized, might be of advantage even to the great State which my friend represents with so much ability on this floor. I therefore adopt the language of my friend, when he said, "Let us take no backward step." I would increase this appropriation, rather than diminish it. I wish it were $100,000, — ay, Sir, $500,000.

The amendment was rejected, — Yeas 19, Nays 38.

NO EXCLUSION OF RETIRED ARMY OFFICERS FROM CIVIL OFFICE.

REMARKS IN THE SENATE, MAY 12, 1870.

THE Senate having under consideration a bill for the reduction of the Army, reported by Mr. Wilson, of Massachusetts, from the Committee on Military Affairs, as a substitute for one from the House, and the pending question being on an amendment by Mr. Trumbull, of Illinois, restoring to its original form in the House bill the provision "That it shall not be lawful for any officer of the Army of the United States on the active list to hold any civil office," by striking out the words "on the active list," Mr. Sumner said:—

MR. PRESIDENT,—There is a principle of our institutions, to which reference is constantly made in this debate, which is worthy of constant memory. It is the subordination of the military to the civil power. Mr. Jefferson, in his Inaugural Address, so memorable as a representation of the fundamental principles of republican institutions, expressly declares the subordination of the military to the civil an essential element of a republic. I accept that idea; and I confess that I have always admired in our system that the Navy Department and the War Department each is in charge of a civilian; that neither a naval officer nor a military officer, in the ordinary course of affairs, takes his place at the head of either of these Departments, to the end that the Navy and the Army shall see in a civilian the visible head of each. In that I recognize the genius of the Republic.

But now, Sir, for the application. I confess I agree entirely with the argument of the Senator from Ohio [Mr. SHERMAN]. I consider that the demands of republican institutions are completely satisfied, if we exclude men in active service from taking part in civil life. To go further is to tie the hands of the appointing power, — to take from the country the opportunity of securing, it may be, important service, — and, I think, is to be needlessly hard on men who in their day have rendered good service to the country. It does seem to me that cases may occur where it may be important to take into the civil service a retired officer. Why may not that occur in the natural course of events? There is talent, there is experience. Are our offices so well filled, is the public service so completely performed, that we can afford to exclude talent and experience?

MR. CONKLING. Is not that much more true in regard to active officers?

MR. SUMNER. There, Sir, you come in conflict with the fundamental principle of republican institutions. You cannot, as I submit, fill civil offices from the active service of the Army or Navy without conflict with that fundamental principle.

MR. CONKLING. Why?

MR. SUMNER. But I find no such conflict, if you take an officer on the retired list.

MR. CONKLING. Will the Senator point out the distinction?

MR. SUMNER. The Senator asks, "Why?" For the obvious reason, that, when the officer is on the retired list, he has, for all the ordinary purposes of the service, ceased to be an officer, — he enjoys what I think has been called a pension, which in reality is a pension under another name, — and he has ceased to be in the active, practical service either of Navy or of Army. On that account I see a clear distinction.

Therefore it seems to me, for the sake of the public service, and that we may not be guilty of hardship to any portion of the community, that the words introduced by my colleague in the pending bill ought to be preserved. I hope they will not be struck out.

The amendment prevailed, — Yeas 34, Nays 22.

ARCTIC EXPEDITIONS.

REMARKS IN THE SENATE, MAY 27, 1870.

ON the question of an appropriation of $100,000 for "one or more expeditions towards the North Pole," moved by Mr. Sumner, under a resolution of the Committee on Foreign Relations, — it being objected by Mr. Morrill, of Vermont, that "we could not afford to embark in such an enterprise," that "the money was needed for purposes altogether more pressing," Mr. Sumner remarked, —

THE Senator from Vermont has just moved and carried a large appropriation for the extension and adornment of the Capitol grounds, and now he opposes a smaller appropriation having for its object the extension of geographical knowledge in this hemisphere. I voted gladly for the proposition of the Senator; but he does not favor mine. He is against the North Pole. His mood is not unlike that of Lord Jeffrey, when he broke forth against it. Somebody, to whom he had spoken impatiently on the subject, complained to Sydney Smith of the language he had employed, being nothing less than "Damn the North Pole!" — when the great wit endeavored to soothe the injured man, saying, "Do not be concerned; I have heard him speak disrespectfully of the Equator." I presume the Senator from Vermont would do the same thing, if there were any question of exploration under the Equator.

I doubt not that in former days the Senator has circulated under his frank Herndon's "Exploration of the Valley of the Amazon." Here was an Equatorial

exploration by which our country has gained honor. There is nothing in our history by which we have acquired a better fame than what we have done for science. The scientific reports on our Western territory are much valued where science is cultivated. And the United States Exploring Expedition, organized by the care of John Quincy Adams, has given to our Republic a true renown. Who would blot from our annals this invaluable record? But we, too, may do something not unworthy of companionship with this early expedition.

Thus far our Government has attempted nothing for Polar exploration. Kane and Hayes have added to our geographical knowledge, and inscribed the names of honored countrymen on Arctic headlands; but their expeditions proceeded from private munificence. The time has come when the Government should take up this work, nor leave the monopoly to foreign powers. Perhaps I desire too much; but I would have my country explore this whole North American Continent, not only in the interest of science, but for the sake of the near future. It is easy to see that our Capitol grounds will be broader than anything included in the amendment of the Senator from Vermont, and I hope we shall not delay their exploration.

Nor should we be daunted by difficulties. I cannot doubt that the time will come when every quarter of the globe, with every corner, every recess, whether at the Equator or the Pole, whether land or sea, will be brought within the domain of knowledge, and find its place on the map, so that there shall be no *Terra Incognita;* but we must do our part in this triumph. Do not say that this knowledge is without value. Just in

proportion as we know the earth can we use and enjoy it. Therefore, for our own advantage and for our good name ——

THE VICE-PRESIDENT. It is the duty of the Chair to remind the Senator from Massachusetts that his five minutes have expired.

The appropriation was voted, — Yeas 28, Nays 25.

ONE CENT POSTAGE, WITH ABOLITION OF FRANKING.

SPEECH IN THE SENATE, JUNE 10, 1870.

THE Senate, as in Committee of the Whole, having under consideration the House bill "to abolish the franking privilege," Mr. Sumner said: —

MR. PRESIDENT, — This debate began with a simple proposition to abolish the franking system, sometimes called "the franking privilege." The bill for this purpose rudely terminates the existing system, without supplying any substitute, and without taking advantage of the proposed change to reduce the rate of postage. The bill is destructive, but in no respect constructive. It pulls down, but does not pretend to set up. It abolishes an old and time-honored, if not beneficent system, under which the people have grown in knowledge; but it does not attempt to provide any means by which the original object of the system shall be accomplished. It is a raw, crude, naked proposition. To adopt it in its present form would be as if you voted the destruction of this Capitol, without providing any place for the meeting of Congress, or economizing the ruins you made.

THE FRANKING SYSTEM, AND NOT THE FRANKING PRIVILEGE, IN OUR COUNTRY.

IN England the power to frank was originally conferred as a "privilege," and it assumed this character

completely with time. When O'Connell wrote to a young aspirant, who had just been elected to Parliament, "You can frank to-night," he announced a privilege. So far as this power in our country can be regarded as a privilege, it has no title to favor, — not the least. But whatever may be its character, nothing is clearer than that it should not be a burden on the postal service. With regard to the frank there are two obvious principles: first, so far as it is a privilege, it must be abolished; and, secondly, so far as it is allowed to remain, it must not be at the expense of the Post-Office, but, like other national services, be paid by the National Treasury. Better still, let it all disappear in a renovated system, where the rate of postage shall render the frank unnecessary.

The franking system in our country cannot be treated alone. It is part of a larger system, being the postal service of the country, and must be regarded in its relations to this service. In its most simple statement it is the freedom of certain letters, documents, pamphlets, and seeds in the public mails; but its true character is seen only in its operation. The franking system is that part of the postal service by which the people are enabled without cost to address their Senators and Representatives in Congress, and also the Departments of Government, while these answer without cost, thus bringing all near together; it is also that part of the postal service by which public documents are circulated throughout the country, and though much is distributed to little purpose, yet much is of unquestionable advantage. Seeds, speeches, and pamphlets are also distributed in the same way; nor can there be any question of the good influence from this agency. All

these are component parts of the existing postal system. Strike out these, and the postal system of our country is changed. It is not the system which has existed from the beginning of our Government, under which the country has grown in knowledge and power.

To those who speak lightly of the franking system I indicate briefly what it has done. It has brought the people and the Government nearer together than people and Government ever were before. It has distributed innumerable documents by which knowledge in government, in science, and in the practical arts has been advanced. It has lent itself to the dissemination of truth, especially in speeches; so that it has been preacher and schoolmaster, with the whole people to hear and to learn. During the long tyranny of Slavery it was by the franking system that the arguments and protests against this wrong were carried among the people; and when Slavery broke forth in rebellion, the franking system became the powerful ally of the national cause; and now in the education of the States lately in rebellion this very franking system is the same powerful ally. It may be politic, discreet, and economical to dispense with it, but not, I think, without providing some substitute or commutation.

PROPOSED SUBSTITUTE.

To meet the exigency of the pending proposition I have introduced a bill, whose character may be seen in its title, — being "to simplify and reduce the rate of postage, to abolish the franking system, to limit the cost of carrying the mail, and to regulate the payment of postage."[1] While abolishing the franking system, I

[1] Senate Bill, No. 793, — introduced April 15, 1870.

try to provide a substitute, and at the same time, by associate provisions, to simplify and reduce the rate of postage. Taking advantage of the proposed change, I would revise the whole postal service, and bring it into harmony with the demands of republican civilization. Here the example of England is an important guide. The franking system there was an indulgence, or privilege, and little else. The "Quarterly Review," while recognizing it as an abuse, likened it to "the concomitant and greater one which stands on the same ground, — *exemption from arrest.*"[1] It was not a system important in the relations between Government and people, and yet it was abolished only in conjunction with the establishment of a uniform letter-postage at one penny. But just in proportion as the franking system is important with us should its abolition be accompanied by a corresponding reduction in postage.

The copper unit of value in England is a penny, and this was adopted as the rate of postage there. With us the copper unit of value is a cent, and this I would adopt as the rate of postage here.

There are other provisions in the bill to which I call attention, especially the new facilities for newspapers and periodicals; also the requirement that all the business of the Post-Office shall be by stamps, so that no money shall be collected or received by any clerk in the office. By this process, at once simple, economical, and efficient, all postages will be collected, and there will be no necessity for accounts. The stamp office will be the universal money office, and the vendor of stamps will be the universal collector.

Do you ask for economy? I show you a way, simple

[1] Vol. LXIV. p. 559, October, 1839.

and certain, by which receipts will be assured, while business is simplified. All dues will be collected at the minimum of cost, so that there will be no loss from frauds or supernumerary hands. There will be both security and economy, besides simplicity; but simplicity is economy as well as convenience, in the Post-Office as in mechanics.

FOREIGN EXAMPLES.

If we go to foreign countries for example, we shall be obliged to stop in England. There is nothing in any nation of the European continent which is not a warning. Everywhere on that continent, from time immemorial, postage has been exorbitant. The great Revolution which popularized the institutions of France did not popularize the Post-Office. Kings and nobles disappeared, while equal rights prevailed; but France, fruitful in ideas, did not conceive the idea of the Post-Office as a beneficent agent of civilization and the handmaid of social life. Nor at that time was England in advance of France. Everywhere postage was high and the mails were slow. In England the service had a burden in the circumstance that every peer of the Upper House and member of Parliament had a defined power of franking, — being the power to send ten letters daily and to receive fifteen.[1] As the letters sent and received by each privileged person were limited in number, the Post-Office was obliged each day to verify every frank and to count the letters thus sent and received. Here was what may be justly called "the franking privilege," while the whole postal service was

[1] 35 Geo. III. c. 53, § 3. Lewins, Her Majesty's Mails, (2d edit., London, 1865,) p. 100.

costly and cumbersome. Like that of the United States, it was the growth of accident, and it was administered with a particular eye to profits, as if this were the first object of a post-office. Economy there should be always, but profits never. In Great Britain the surplus of receipts above the cost of administration was carried to the general treasury. In the United States the surplus received on certain lines has been employed down to this day in extending mail facilities to the sparse settlers in other parts of the country, besides defraying the expense of the franking system; and the letters of the people have been subjected to this tax.

IN ENGLAND THE POST-OFFICE REGARDED ORIGINALLY AS A SOURCE OF REVENUE.

FROM a proposition submitted to the King in 1635, and still preserved in the State-Paper Office, it appears that the postal service was of the slenderest character: letters, it is said, "being now carried by carriers or foot-posts sixteen or eighteen miles a day, it is full two months before any answer can be received from Scotland or Ireland to London."[1] But just so soon as it attracted attention the Post-Office was regarded as a source of revenue. In 1657 a voice in Parliament declared that it would "raise a revenue"; while a wise statesman replied, with little effect, "Nothing can more assist trade than this intercourse."[2] It was often farmed out for hire. The posts, both inland and foreign, under the Commonwealth, were farmed for £10,000

[1] Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 404, art. POST-OFFICE.

[2] Burton's Diary, (London, 1828,) Vol. II. p. 156.

a year.[1] In 1659 the Report on the Public Revenue contains the following item: "By postage of letters in farm, £14,000."[2] Under Charles the Second the same system was continued, and his first Postmaster-General contracted to pay to the King a yearly rent of £21,500.[3] A little later we meet the statute of 15 Charles II. c. 14, with the suggestive title, "An Act for settling the profits of the Post-Office on his Royal Highness the Duke of York and the Heirs male of his body." Under Queen Anne, what were called the "cross-posts" were farmed to Ralph Allen, who made great improvements in their management upon an agreement that the new profits so created should be his own during life. The bargain was so excellent for the contractor that during forty-two years he netted an average annual profit of nearly twelve thousand pounds,[4] which was enormous for those days. It is pleasant to think that the money thus obtained was well spent, as will be confessed when it is known that this contractor was the *Allworthy* of Fielding, and won from Pope that famous praise, —

> "Let humble Allen, with an awkward shame,
> Do good by stealth, and blush to find it fame."[5]

The Post-Office was not only farmed to contractors, but it was burdened with pensions, sometimes to a royal mistress or favorite. This system was begun by James the Second, who, in execution of the wishes of his brother, Charles the Second, granted to Barbara, Duchess of Cleveland, £4,700 annually, and to the Earl of Rochester £4,000 annually, payable by the Post-

[1] Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 405.
[2] Ibid. [3] Ibid. [4] Ibid., p. 407.
[5] Epilogue to Satires, Dial. I. 136-7. Lewins, Her Majesty's Mails, (2d edit.,) p. 111.

Office.[1] Among the rewards lavished at a later day upon the Duke of Marlborough was an annual pension of £5,000, charged upon the Post-Office;[2] so that the victor of Ramillies and of Blenheim was a stipendiary upon the correspondence of the kingdom, every letter contributing to his annual income.

As the correspondence of the kingdom was charged with pensions, so also was it called to bear the burden of war. The statute of 9 Anne, c. 10, tells the story in its title: "An Act for establishing a General Post-Office for all her Majesty's dominions, and for settling *a weekly sum out of the revenues thereof for the service of the war* and other her Majesty's occasions." This statute was not short-lived, and its success as "war measure" encouraged the imposition of other burdens, so that the great English commentator, Sir William Blackstone, selected the Post-Office as a favorite pack-horse. "There cannot be devised," says he, "a more eligible method than this of raising money upon the subject; for therein both the Government and the people find a mutual benefit. The Government acquires a large revenue; and the people do their business with greater ease, expedition, and cheapness than they would be able to do, if no such tax (and of course no such office) existed."[3] Here is the rule authoritatively declared which so long prevailed with regard to the Post-Office.

ORIGIN OF FRANKING PRIVILEGE IN ENGLAND.

THE English franking privilege was the natural parasite of such a system, where the true idea of a post-office

[1] Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 407. Lewins, Her Majesty's Mails, (2d edit.,) p. 53.

[2] Encyc. Brit., *ubi supra.* [3] Commentaries, Vol. I. p. 323.

was entirely forgotten. Its origin belongs to this argument. It was in 1657, beneath the sway of the great Protector, while the Postage Act was before the House, that Sir Christopher Pack is reported as saying, "The design of the bill is very good for trading and commerce; . . . . as to that of letters passing free for members, it is not worth putting in an Act";[1] and this is the earliest allusion to "letters passing free for members." The idea showed itself again just after the Restoration, while the Act of 12 Charles II., c. 35, was under discussion. The proposition to frank all letters to or from members of Parliament during the session was carried on a division and after considerable debate, in the course of which Sir Heneage Finch, so eminent as lawyer and judge, characterized it as "a poor mendicant proviso, and below the honor of the House." Among its partisans was Sir George Downing, a graduate in the first class of Harvard College. The Speaker, Sir Harbottle Grimston, was unwilling to put the question, saying, "I am ashamed of it."[2] The Lords struck it out of the bill, ostensibly for the reasons which had actuated the Opposition in the Commons, but really because there was no provision that their own letters should pass free. Although the proposition failed at that time to obtain legislative sanction, yet the object was accomplished indirectly. In the indenture with the contractor to whom the Post-Office was farmed occurred a proviso for the free carriage of all letters to or from the King, the great officers of State, "and also the single inland letters only of the members of the present Parliament

[1] Burton's Diary, Vol. II. p. 156.

[2] Hansard's Parliamentary History, Vol. IV. col. 163, December 17, 1660.

during the continuance of this session of this Parliament."[1] And thus began the "franking privilege" in England. Defeated in Parliament, it was smuggled into a Post-Office contract. With such an origin, it became a mere perquisite of office; and afterward, when sanctioned by statute, it was employed at the mere will of its possessor, who sometimes distributed his franks among his friends and sometimes sold them for a price.[2]

POST-OFFICE IN THE COLONIES.

THE postal service in the Colonies was on a small scale. Authentic incidents show its beginnings. The Government of New York in 1672 established a post to go monthly from New York to Boston, advertising "those that bee dispos'd to send letters, lett them bring them to the Secretary's office, where, in a lockt box, they shall bee preserv'd till the messenger calls for them. All persons paying the post before the bagg be seal'd up."[3] Thirty years later this monthly post was fortnightly.[4] In Virginia the postal service was more simple. The Colonial law of 1657 required every planter to provide a messenger for the conveyance of dispatches, as they arrived, to the next plantation, and so forward, on pain of forfeiting a hogshead of tobacco for each default.[5] Until after 1704 there was no regular

[1] Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 405. Lewins, Her Majesty's Mails, (2d edit.,) p. 97.

[2] Lewins, p. 100.

[3] Barber and Howe's Historical Collections of New York, p. 290.

[4] Encyc. Brit., (8th edit.,) Vol. XVIII. p. 406.

[5] Statutes at Large, ed. Hening, Vol. I. p. 436. Encyc. Brit., (8th edit.,) Vol. XVIII. p. 406.

post further East than Boston, or further West than Philadelphia. In that year Lord Cornbury, writing to Government at home, says:—

"If I have any letters to send to Virginia, or to Maryland, I must either send an express, who is often retarded for want of boats to cross those great rivers they must go over, or else for want of horses, or else I must send them by some passengers who are going thither. The least I have known any express take to go from hence to Virginia has been three weeks."[1]

Shortly afterward stage-coaches were established between Boston and New York, and between Boston and Philadelphia; but no post-office was established in Virginia until 1732; nor did any postal revenue accrue to Great Britain from the Colonies until 1753, when Benjamin Franklin became Postmaster-General for the Colonies.[2]

The same genius which ruled in philosophy and in politics was not wanting in this sphere of duty. The office was remodelled, and the sphere of its operations extended. But the efforts of Franklin in this department became tributary to the revenues of the mother country. On his removal, in 1774, he was able to say, "Before I was displaced by a freak of the ministers we had brought it to yield *three times as much clear revenue to the Crown* as the Post-Office of Ireland. Since that imprudent transaction they have received from it—not one farthing."[3] Revenue! always revenue! Even

[1] Lord Cornbury to the Lords of Trade, June 30, 1704: Documents relative to the Colonial History of New York, ed. O'Callaghan, Vol. IV. p. 1113.

[2] Encyclopædia Britannica, Vol. XVIII. (8th edit.,) pp. 406, 408.

[3] Autobiography: Works, ed. Sparks, Vol. I. p. 174.

Franklin shows no sign of ascending to the true idea of a post-office. The Revolution was now at hand, when the Crown ceased to receive revenue from any source in the United States. But in separating from the mother country the Post-Office was left unchanged in character. It was an undeveloped agency, with receipts always above expenses.

REFORM AND PENNY POSTAGE IN ENGLAND.

MEANWHILE in the mother country the Post-Office continued to be a source of revenue; but its natural capacities were impaired by a defective system, without an animating soul. It was merely a machine for carrying a few letters and putting money into the public treasury. Though still on a small scale, its processes were multifarious. The rates were constantly altered, and generally increased in amount, as also in number, in each of the three kingdoms, and without uniformity in either two. From two or three, in 1710, they rose in number until they reached the climax of absurdity and inconvenience in twelve different rates for England and Scotland in 1812, and thirteen for Ireland in 1814.[1] The impracticable system, with rates at once numerous and high, led to perpetual evasions, while the franking privilege was a charge without an equivalent. At last the day of revolution came. After careful inquiry the old system was swept away, and with it no less than one hundred and fifty Acts of Parliament by which it was incumbered.[2] The old was succeeded by the new,

[1] Miles, History of the Post-Office: Bankers' Magazine, (New York, 1857-58,) Vol. XII. pp. 342-3.

[2] Ibid., p. 343.

and the change was complete. No institution in history ever underwent at once a transformation so beneficent as that of the British Post-Office.

Next after Benjamin Franklin, Rowland Hill will be enrolled as the most remarkable character in the history of the Post-Office. The son of a schoolmaster, of simple life, and without any connection with the postal service, he conceived the idea of radical reform. It is not too much to say that he became the inventor or author of cheap postage. More than all Franklin did for the Colonies Hill did for Great Britain. Call him inventor or author, there are few on either list more worthy of honor; and since what is done for one country becomes the common property of the world, he belongs to the world's benefactors.

Rowland Hill well observed, that, while population, business, and all other sources of national revenue had greatly increased during the preceding twenty years, the revenue of the Post-Office had actually decreased; that, for instance, the revenue from stage-coaches had risen from £217,671 in 1815 to £498,497 in 1835, or one hundred and twenty-nine per cent., while the postal revenue, which at a corresponding rate of increase should have exhibited a gain of £2,000,000, in point of fact showed an absolute loss of near £20,000, having declined from £1,557,291 in 1815 to £1,540,300 in 1835.[1] Evidently there was something abnormal, when the conveyance of persons and parcels yielded a revenue so much beyond that of letters. After showing the loss to the revenue, the generous reformer demonstrated clearly that the actual cost of carrying a letter by coach in the mail from London to Edinburgh, being four hun-

[1] Post-Office Reform, (4th edit.,) pp. 2–4.

dred miles, was only one thirty-sixth part of a penny,[1] — from which it was properly inferred that the actual difference of expense between transporting a letter one mile and delivering it and transporting it four hundred miles and delivering it did not justify a different rate of postage. His conclusion was, that the large cost of distributing letters grew out of a complex and multifarious system, springing especially from many rates, — that all this would be superseded, if postage were charged, *without regard to distance, at a uniform rate*, and that this uniform rate should be one penny; and he did not hesitate to declare that with this change there would be an increase in correspondence "at least five and a quarter fold."[2] In his original proposition, Rowland Hill relied especially upon a uniform rate at a penny, regardless of distance, — and from this promised simplicity, economy, and an immense increase of correspondence. But, offensive as the franking privilege had become, and burdensome to the postal service, he did not at first propose its excision.

His plan encountered that honest opposition which improvement of all kinds is obliged to overcome. The record is most instructive. The Postmaster-General, Lord Lichfield, said in the House of Lords: "Of all the wild and visionary schemes which I have ever heard of, it is the most extravagant." On another occasion the same high official assured the House, that, if the anticipated increase of letters should be realized, "the mails will have to carry twelve times as much in weight; and therefore the charge for transmission, instead of £100,000, as now, must be twelve times that amount. The walls of the Post-Office would burst; the

[1] Post-Office Reform, (4th edit.,) pp. 12-14. [2] Ibid., p. 44.

whole area in which the building stands would not be large enough to receive the clerks and the letters."[1] In the same spirit with his chief, Colonel Maberly, the experienced Secretary of the Post-Office, in his testimony before the Committee, did not hesitate to say: "It appears to me a most preposterous plan, utterly unsupported by facts, and resting entirely on assumption." And he proceeded to predict a loss of revenue from its adoption, saying, that, if postage were reduced to one penny, the revenue "would not recover itself for forty or fifty years."[2] The London "Quarterly Review," with its habitual obstructiveness, set itself against the new plan and its promised result, saying: "Common sense is astounded at such a result and refuses to believe it, though it cannot at first sight discover where the fallacies lie; but a little examination will show, that, as usual, common sense is right, even against the assumed accuracy of arithmetic."[3] I give these as illustrative examples of the opposition encountered.

Against all these stood Rowland Hill, insisting that the Post-Office, although now "rendered feeble and inefficient by erroneous financial arrangements," in contemplation of the proposed reform "assumes the new and important character of a powerful engine of civilization, capable of performing a distinguished part in the great work of national education."[4]

The proposed reform was vindicated as practical and

[1] Debates, June 15 and December 18, 1837: Mirror of Parliament, cited in Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 411.

[2] Second Report from Select Committee on Postage, p. 349, — Minutes of Evidence, Nos. 10908, 10911: Parliamentary Papers, 1837-8, Vol. XX. Part 2.

[3] Vol. LXIV. p. 541, October, 1839.

[4] Post-Office Reform, (4th edit.,) p. 6.

valuable, first by witnesses before the Parliamentary Committee, and then in Parliamentary debate. The Committee examined no less than eighty-nine witnesses. These were from every rank and nearly every trade and profession, — peers of the realm, members of the House of Commons, authors, publishers, merchants, bankers, mechanics, common carriers, clergymen, solicitors, Post-Office officials, and others. Among the witnesses were Richard Cobden, Charles Knight, Rowland Hill, Dionysius Lardner, and Lord Ashburton.[1] The testimony embraced eleven thousand six hundred and fifty-four questions and answers, and filled three large folio volumes bound in two, making altogether nearly sixteen hundred pages. The Index alone makes one hundred and fifty-three pages.

Among the many things testified before the Committee I select the words of Lord Ashburton, as especially valuable. Experienced in business and in public life, he pictures truthfully the burden of excessive postage, when he says: —

"I think it is one of the worst of our taxes. We have, unfortunately, many taxes which have an injurious tendency; but I think few, if any, have so injurious a tendency as the tax upon the communication by letters."

And then again: —

"It is, in fact, taxing the conversation of people who live at a distance from each other. The communication of letters by persons living at a distance is the same as a communication by word of mouth between persons living in the same town. You might as well tax words spoken upon the Royal Exchange as the communications of various persons living

[1] See the full list in Appendix (A) to Second Report.

in Manchester, Liverpool, and London. You cannot do it without checking the disposition to communicate very essentially."

At the same time Lord Ashburton hesitated to adopt a rate as low as one penny. He was for twopence or threepence.[1]

The doubts of Lord Ashburton as to the rate were encountered by Mr. Cobden, who testified: —

"I consider the only way to produce the greatest possible amount of revenue is to charge the lowest possible trading profit; and it is in the Post-Office as in steamboats, or Paddington coaches, or calicoes, or sugars, or teas, or anything else which can be or ought to be an article of universal demand and consumption. With that view I have regarded Mr. Rowland Hill's plan of Post-Office Reform; and taking the cost of a letter, upon the presumed increase he has stated, even at three-fourths of a penny each letter, I should say one penny would then be a proper charge ultimately to produce the greatest possible amount of revenue. I would reason from analogy and experience in every other business, and in none more than my own."[2]

On such a point nobody could speak with more authority than Mr. Cobden.

But nobody showed more comprehension of the moral ground for this reform than Mr. Jones Loyd, the eminent banker and economist, afterwards Lord Overstone. Nothing can be better than this: —

"I think, if there be any one subject which ought not to have been selected as a subject of taxation, it is that of intercommunication by post; and I would even go a step further,

[1] Second Report, pp. 147, 148, 149, — Minutes of Evidence, Nos. 8126, 8130, 8134.

[2] Ibid., p. 52, — Minutes of Evidence, No. 6728.

and say, that, if there be any one thing which the Government ought, consistently with its great duties to the public, to do gratuitously, it is the carriage of letters. We build national galleries, and furnish them with pictures; we propose to create public walks, for the air and health and exercise of the community, at the general cost of the country. I do not think that either of those, useful and valuable as they are to the community, and fit as they are for Government to sanction, is more conducive to the moral and social advancement of the community than the facility of intercourse by post. *I therefore greatly regret that the post was ever taken as a field for taxation*, and should be very glad to find, that, consistently with the general interests of the revenue, which the Government has to watch over, they can effect any reduction in the total amount so received, or any reduction in the charges, without diminishing the total amount."[1]

In all the voluminous testimony this beautiful passage is like a beacon-light.

At last this important subject was transferred from the Committee to Parliamentary debate; and here I content myself with a few brief words from leading speakers. Mr. Goulburn, one of the chiefs of Opposition, admitted that the plan proposed would "ultimately increase the wealth and prosperity of the country."[2] Mr. Wallace declared it "one of the greatest boons that could be conferred on the human race."[3] Sir Robert Peel admitted that "great social and commercial advantages will arise from the change, independent of financial considerations."[4] Viscount Sandon, of the Opposi-

[1] Second Report, p. 305, — Minutes of Evidence, No. 10378.

[2] Debate on the Budget, July 5, 1839: Hansard, 3d Ser., Vol. XLVIII. col. 1373.

[3] Ibid., col. 1384.

[4] Speech on the Postage Duties Bill, July 22, 1839: Hansard, 3d Ser., Vol. XLIX. coll. 638-9.

tion, struck a higher chord, when he declared that he "had long been of opinion that the Post-Office was not a proper source of revenue," but "ought to be employed to stimulate other sources of revenue."[1] In the same strain, and with higher authority, Mr. O'Connell declared it "one of the most valuable legislative reliefs that had ever been given to the people"; that it was "impossible to exaggerate its importance"; and even if it would not pay the expense of the Post-Office, he held that "Government ought to make a sacrifice for the purpose of facilitating communication."[2] I group these testimonies as important in the history of this reform, and furnishing a guide for us.

VICTORY.

At last victory was assured. The Parliamentary Committee reported in favor of change. But Parliament hesitated to fix the change in permanent form. By Act of 17th August, 1839, the Lords of the Treasury were empowered by warrant under their hands to declare the rates of postage according to weight, "without reference to the distance or number of miles the same shall be conveyed," — and also to suspend, wholly or in part, "any parliamentary or official privilege of sending and receiving letters by the post free of postage, or any other franking privilege of any description whatsoever." The Lords of the Treasury were contented with ordering a uniform rate of fourpence, and without the abolition of the franking privilege. This was not enough. The

[1] Speech on Uniform Penny Postage, July 12, 1839: Hansard, 3d Ser., Vol. XLIX. col. 304.

[2] Debate on the Budget, July 5, 1839: Hansard, 3d Ser., Vol. XLVIII. coll. 1408, 1409.

people called for more, and the Lords of the Treasury by another warrant declared the rate at one penny and suspended the franking privilege.[1] This was followed by the Act of Parliament passed 10th August, 1840, in which the great change was consummated. The rate was established at one penny, with stamps; and the franking privilege was abolished, except in the case of petitions to the Crown or to Parliament not exceeding thirty-two ounces in weight. The clause of abolition was as follows:—

"That, except in the cases herein specified, all privileges whatsoever of sending letters by the post free of postage, or at a reduced rate of postage, shall wholly cease and determine."[2]

The abolition of the franking privilege was more than Rowland Hill had proposed. In his testimony before the Parliamentary Committee he undertook to account for the anticipated increase of letters "in some measure from the *partial voluntary disuse* of the franking privilege,"[3] — thus mildly forecasting, not its abolition, but its voluntary renunciation. And the Committee, in their recommendations, treated its abolition as incident to cheap postage. This is their language:—

"It would be politic, ... *if, on effecting the proposed reduction of the postage rates,* the privilege of Parliamentary franking were to be abolished, and the privilege of official franking placed under strict limitation, — petitions to

[1] Treasury Warrants, November 22 and December 27, 1839: Parliamentary Papers, 1840, Vol. XLIV. No. 17.

[2] Section LVI.

[3] First Report from Select Committee on Postage, p. 16, — Minutes of Evidence, No. 135: Parliamentary Papers, 1837-8, Vol. XX. Part 1.

Parliament and Parliamentary documents being still allowed to go free."[1]

Thus was the abolition of the franking privilege announced as subordinate to the reduction of the postage rates, which was the main object.

Thus, after inquiry and debate lasting for three years, this great reform was accomplished, and the English Post-Office assumed an unprecedented character. The new system was founded on a uniform rate for uniform weight without regard to distance, and this rate the lowest unit of coin, — with prepaid stamps, and the abolition of the franking privilege. The experiment was a prodigious success, although the first results showed a falling off financially. The Post-Office authorities had predicted that it would not pay expenses; but the diminished receipts were more than enough for the expenses, while the number of letters was more than doubled.[2] There was a smaller net revenue for the National Treasury, but an infinite benefit to the people. The surplus of the first year was £500,789, against £1,633,764 of the previous year.[3] But the improvement financially was constant, so that here Rowland Hill became a prophet. He had predicted that the increase of correspondence and the economy of management would in a reasonable time afford a probable net revenue of £1,278,000.[4] In 1856 the net revenue had reached £1,207,725, — while at the same time the

[1] Third Report from Select Committee on Postage, p. 62: Parliamentary Papers, 1837-8, Vol. XX. Part 1.

[2] In 1839, 75,907,572; in 1840, 168,768,344: First Report of Postmaster-General, Appendix (D), p. 65: Parliamentary Papers, 1854-5, Vol. XX.

[3] Ibid., Appendix (F), p. 68.

[4] Post-Office Reform, (4th edit.,) pp. 26, 44.

letters were 478,393,803 in number, with 6,178,982 money orders, against 75,907,572 letters, with 188,921 money orders, in the last year of the old system.[1]

The smallest part of the result was in the revenue, — except so far as this was advanced by the increased activity of the country, represented by the added millions of correspondence. Commerce and business were quickened infinitely, while the ties of social life were brightened and the heart was rejoiced. Here the testimony is complete. Tradesmen wrote to Rowland Hill, their benefactor, saying how their business had increased. Charles Knight, the eminent publisher, who did so much for the literature of the people, wrote that every branch of bookselling was stimulated, while the country seller was brought into almost daily communication with the London houses. The publisher of the Polyglot Bible in twenty-four languages, requiring a peculiar revision, declared that it could not have been printed but for penny postage. The Secretary of the Parker Society, composed of Church dignitaries and influential laymen, which has done so much for ecclesiastical literature by reprinting the works of the early English Reformers, stated that without penny postage the Society could not have come into existence. Secretaries of other societies, literary and benevolent, wrote how their machinery had been improved; conductors of educational establishments testified that people were everywhere learning to write for the first time, in order to enjoy the benefits of untaxed correspondence, and that night classes of adults for this purpose were springing up in all large towns. A leading advocate for the re-

[1] Third Report of Postmaster-General, Appendix (B), (D), (G), pp. 36, 38, 47: Parliamentary Papers, 1857, Vol. IV.

peal of the Corn Laws gave it as his opinion that this reform must have waited but for penny postage, — that through this ally it reached its triumph two years earlier than it otherwise could have done. All this is easy to believe; for penny postage lends itself to all knowledge and to every reform. Others wrote with rapture of its operations. The accomplished naturalist, Professor Henslow, of Cambridge, rejoiced over its "importance to those who cultivate science," and pictured the satisfaction of the humble people about his country parsonage "at the facility they enjoy of now corresponding with distant relatives," together with what he calls "the vast domestic comfort which the penny postage has added to homes like my own, situate in retired villages." Miss Martineau described its social benefits. Rowland Hill himself, showing how much it had done for the poor, said, "The postman has now to make long rounds through humble districts where heretofore his knock was rarely heard."[1] And from the outlying Shetland Islands a visitor in May, 1842, reported: "The Zetlanders are delighted with penny postage. The postmaster told me that the number of letters was astonishing."[2] But perhaps the heartfelt exultation was never better expressed than by the accomplished traveller, Mr. Laing, when, after describing the Prussian system of education, and giving the palm to penny postage as "a much wiser and more effective educational measure," destined to be "the great historical distinction of the reign of Victoria I.," he proceeds to say, that "every mother in the kingdom, who has children earning their

[1] Results of the New Postage Arrangements: Journal of the Statistical Society of London, Vol. IV. p. 96, July, 1841.

[2] Fraser's Magazine, September, 1862, — Vol. LXVI. p. 335.

bread at a distance, lays her head upon her pillow at night with a feeling of gratitude for this blessing."[1] Such was the unbought tribute from all quarters, — alike the cottage of the lowly and the home of the professor, the counting-house of the merchant and the activities of benevolence, business in its various forms, and the commanding efforts of the political reformer, all, all confessing their debt to penny postage.[2]

The benefactor was honored in no common way, but not without tasting the lot of others who have served Humanity. At first assigned to a position in the Treasury connected with the Post-Office, then dismissed, and then, with a change of Administration, not only restored to the service, but appointed to a high position in the Post-Office itself, he had the inexpressible satisfaction of witnessing the triumph of his efforts and receiving the grateful regard of a happy people. He was not rich, and the considerable sum of £13,000 was presented to him by a public subscription throughout the country, with an address declaring the reform he had accomplished "the greatest boon conferred in modern times on all the social interests of the civilized world." The knighthood bestowed by his sovereign was another attestation of his prevailing merit, destined to be followed by a further gift from Parliament itself of £20,000.[3] This episode of honor and gratitude to the benefactor has a peculiar interest for us, as furnishing new testimony to the cause with which the name of Rowland Hill is forever associated.

[1] Notes of a Traveller, (London, 1842,) pp. 169, 170.

[2] For this testimony, besides the works cited above, see Lewins, Her Majesty's Mails, (2d edit.,) pp. 198 - 201; and Report of Select Committee on Postage, August, 1843, pp. 12 - 15: Parliamentary Papers, 1843, Vol. VIII.

[3] Lewins, Her Majesty's Mails, (2d edit.,) pp. 191 - 4.

THE SAME VICTORY MAY BE OURS.

SUCH was the great reform by which the Post-Office became an evangel of civilization; but all this may be ours. The impediments overcome were greater than any we are called to encounter, while the object proposed is in undoubted accord with republican institutions, where simplicity, harmony, and adaptation to popular needs are acknowledged principles. This renovation prevailed in England: how can it fail in the United States? The Republic is the most advanced type of government, as the human form is the most advanced type of the animal world; but the Republic is nothing else than an organization to promote the welfare of men. Whatever makes for human welfare is essentially republican. Nor can any loss of revenue be set against this transcendent opportunity. Show me how to promote the welfare of men, and I show you an economy beyond any revenue; more still, I show you a duty not to be postponed.

The ruling principle in England, from the beginning down to the triumph of penny postage, was revenue; and this is still the ruling principle with us, to which all else is subordinated. England was accustomed to say, and the United States now say, with Shylock, "We would have moneys." The abolition of the franking system is proposed on this ground, — not to lighten the existing burden of correspondence, not to cheapen postage, not to simplify the postal service, not to provide the American equivalent of the English penny postage, but simply to increase the revenue. We are summoned to give up a long-tried system, educational

in its influence, merely for the sake of the Treasury. This is the object perpetually in view. Even the Postmaster-General, who is so liberal in all his ideas, says, in words which hardly do justice to the times, "As far as lay in my power, during my short administration, I have reduced the expenditures and increased the revenues of the Department."[1] Something better than this remains to be done.

COMPLEXITY AND MULTIFARIOUSNESS IN OUR SYSTEM.

THE postal system of the United States was kindred in character to that of England until the latter was transfigured by the felicitous genius of Rowland Hill. Both had the same incongruities and incumbrances. The rates in both were complex instead of uniform, and dear instead of cheap. The Act of Congress, February 20, 1792, establishing the Post-Office, provided for no less than nine different rates of postage, viz., — six, eight, ten, twelve and a half, fifteen, seventeen, twenty, twenty-two, and twenty-five cents, — according to distance. In 1799 the number of rates was reduced to six, viz., — eight, ten, twelve and a half, seventeen, twenty, and twenty-five cents. In 1816 the number was further reduced to five, viz., — six, ten, twelve and a half, eighteen and a half, (in 1825 changed to eighteen and three fourths,) and twenty-five cents, — and so continued until 1845, when, yielding partially to the English example, the rates were established at five and ten cents, with two cents for drop letters; then, in 1851, at three and six cents for prepaid and five and ten cents

[1] Report, November 16, 1869, p. 23: Executive Documents, 41st Cong. 2d Sess., H. of R., No. 1, Part 1.

for unpaid letters, with one cent for drop letters; then, in 1855, at three and ten cents prepaid, and one cent for drop letters; then, in 1863, at three cents, or, failing prepayment, six cents, with two cents for drop letters; and finally, in 1865, at three cents prepaid in all cases, with two cents for drop letters delivered by carriers, or one cent where there is no delivery.[1]

The difference between a drop letter and what is called a mailed letter, or letter from post-office to post-office, causes frequent confusion, as is seen here in Washington, where letters for Georgetown often have the two-cent stamp, when they should have that of three cents. The same confusion exists in other places. But this ridiculous division and subdivision are peculiar to the United States. It is not known that they are to be found in any other postal service.

The rates on foreign letters were, if possible, more chaotic. It was different with different countries, according to existing treaties; and this difference prevailed not only in the rate, but also in the unit of weight. As late as 1849 the rate on letters to England and Ireland was twenty-four cents, and was then changed to sixteen cents, and in 1868 to twelve cents; it is now six cents, being two cents for the sea postage and two cents for the inland postage of each country, allowing half an ounce of weight.[2] The treaty rate with France is fifteen cents on one quarter of an ounce.[3] Letters to Canada and other British North American provinces, when not over three thousand miles, are six

[1] Statutes at Large, Vol. I. pp. 235, 734; III. 264; IV. 105; V. 733; IX. 588; X. 641-2; XII. 705-6; XIII. 505, 507.

[2] Ibid., Vol. V. p. 749; XVI. 783, 833, 869.

[3] Ibid., Vol. XVI. p. 872. Report of Postmaster-General, Nov. 15, 1869, p. 14.

cents for each half-ounce, if prepaid, and ten cents, if not prepaid; when over three thousand miles, ten cents; to Newfoundland, ten cents.[1] Then, in the absence of postal international convention, there is a general provision by Act of Congress establishing the rate of ten cents for each half-ounce carried to or received from foreign countries "by steamships or other vessels regularly employed in the transportation of the mails."[2]

Such are the complexity and multifariousness of our postal service, — at least three different rates on inland letters, with an unknown variety on foreign letters. Here is discord where there should be uniformity, and out of this discord springs necessarily embarrassment with untold expense. True, much has been done; but much remains to be done before the service will have that simplicity without which it is vain to expect the desired combination of utility and economy. Every departure from uniformity is an impediment and an expense. It is with the postal service as with all else in Nature and Art: it is efficient and economical in proportion as it is simple. The rates of postage should be uniform. Borrowing a phrase from our political victories, *all letters should be equal before the law.*

Take by way of illustration the increased perplexity from two rates: and here I follow an old official of the Post-Office, Pliny Miles, who puts this very case. "Suppose," says he, "city or local letters were two cents, and letters for a distance three or four cents. What a vast amount of labor and inconvenience in the work of rating and sorting in the Post-Office, and how perplexing

[1] Statutes at Large, Vol. XIII. p. 337; XVI. 1096. Report of the Postmaster-General, December 3, 1868, p. 18.

[2] Act, July 1, 1864, Sec. 8: Statutes at Large, Vol. XIII. p. 337.

to the citizen!"[1] By the existing system there is a double perplexity, — first, for the citizen, and, secondly, for the postal service. Each rate is like an additional language to be learned, while the unknown rates on foreign letters are like the confusion of Babel.

UNIFORM RATE AT ONE CENT.

In the process of simplification the uniform rate should be the lowest unit of coin. Beyond the sufficiency of this rate as a protection of the Post-Office against abuse, and also its obvious convenience, is its cheapness, reducing the tax on correspondence to its practical minimum. In England the penny was the lowest unit of coin, being in the English currency what the cent is in ours. The success of the English experiment is our best encouragement. There is better reason for the cent as a proper rate in our country than there was for the penny as a proper rate in England.

Such a rate will be so near to *free postage* for all, that it may be considered such practically. Let it be adopted, and free postage will become the companion of free school, free lecture, and free library, constituting the mighty group of republican civilization. The existing franking system will naturally disappear in this new franking system for all.

Here we encounter the financial question, What will be the effect on the Treasury? Will it pay? These are the potential words. This is the touchstone. That it will pay in beneficent influence tenfold, ay, Sir, a hundred-fold, — that it will make the Post-Office more than ever the powerful agent of human improvement,

[1] History of the Post-Office: Bankers' Magazine, (New York,) December, 1857, Vol. XII. p. 443.

I cannot doubt. What is a little revenue, compared with such a result? What, even, is a deficit, with such a compensation? But looking at the financial question, and forgetting for a moment the incalculable good, it will be found that there are general laws of profit on small prices applicable to this proposed reduction, reinforced also by the example of England, and even of our own country.

REDUCTION OF PRICE INCREASES CONSUMPTION.

NOTHING is plainer, as a general rule, than that the reduction of price tends to increase of consumption. This is illustrated by a thousand instances. Thus, at one time in England the fall in the price of soap one eighth increased the consumption one third; the fall of tea one sixth increased consumption one half; the fall of silks one fifth doubled the consumption; the fall of coffee one fourth trebled it; and the fall of cotton goods one half quadrupled it.[1] The circulation of newspapers and the number of advertisements are governed by the same law. There is another English instance, not within the range of ordinary business, which is not without historic interest. Formerly the admission fee to the famous sights of the Tower of London was two shillings, at which rate there were, during the year ending April 30, 1838, 11,104 visitors, paying £1110 8*s*. The fee was then reduced to one shilling, and during the twelve months following (1838–9) there were 42,212 visitors, paying £2110 12*s*. On the first of May, 1839, the fee was again reduced to sixpence, and during the ensuing year (1839–40) there were 84,872 visitors, paying

[1] Hill, Post-Office Reform, (4th edit.,) p. 70.

£2121 16*s.*, — and the next year (1840 - 41) 94,973 visitors, paying £2374 6*s.* 6*d.*[1] Thus at the Tower more people were gratified by the sights and more money was taken, — so that there was at the same time a larger accommodation and a larger revenue. A reduction of the fee in the ratio of four to one was followed by an increase of visitors in the ratio of more than eight to one. According to a familiar story in our own country, the exhibitor of a panorama reported to the proprietor that the proceeds at twenty-five cents a ticket did not pay expenses. "Put it down to ten cents," was the reply. This was done, and immediately the receipts rose so as to give a profit of one hundred dollars a week.

Such instances as these occurring in business and in life led Rowland Hill to assert that "the increase in consumption is inversely as the squares of the prices"; and this rule justified the expectation, that, with the proposed reduction of letter postage from the average of sixpence to a penny, the number of letters would increase thirty-six fold.[2] If the number did not increase in this remarkable ratio, yet it was such as to disappoint the enemies of reform. It appears that the estimated number of chargeable letters delivered in the United Kingdom of England, Scotland, and Ireland in 1839, the year immediately preceding the first general reduction of postage, was 75,907,572, and in 1840, the first year of penny postage, 168,768,344, showing an increase in one year of more than 122 per cent. Since

[1] Tower Armories: Parliamentary Papers, 1837 - 8, No. 478, Vol. XXXVI.; 1839, No. 209, Vol. XXX.; 1840, No. 185, Vol. XXIX.; 1841, No. 243, Vol. XIII.; 1845, No. 576, Vol. XLV.

[2] Post-Office Reform, (4th edit.,) p. 70.

then this large number has dilated year by year, until in 1867 it amounted to 774,831,000.[1]

Postal facilities have from the beginning promoted correspondence, and this was recognized even before the appearance of Rowland Hill. An old account of the English Post-Office, after describing certain improvements, exults "that there is no considerable market-town but hath an easy and certain conveyance for the letters thereof to and from the Grand Office in the City of London, in the due course of the mails every post"; and then adds, that, "though the number of letters missive in England were not at all considerable in our ancestors' days, yet it is now prodigiously great, since the meanest people have generally learnt to write."[2] This is the language of another age; but it attests the stimulation which letters receive from opportunity, and illustrates the value of cheap postage.

CHEAP POSTAGE MULTIPLIES LETTERS.

THE experience of England is reproduced in the United States, so far as we have ventured upon postage reform. Every reduction of rate has been followed by a corresponding increase in the number of letters. There was the law of 1845, by which postage was reduced to two principal rates of five and ten cents. At this proposition, which erred only in its feebleness, there was the gloomiest foreboding of utter loss to the Post-Office. The raven did not croak more hoarsely at the entrance of Duncan under the battlements of Macbeth. Mr. McDuffie, the excitable Senator from South Carolina,

[1] First Report of Postmaster-General, App. (D), p. 65; Fourteenth ditto, p. 5: Parliamentary Papers, 1854-5, Vol. XX.; 1867-8, Vol. XXII.

[2] Gentleman's Magazine, April, 1815, Vol. LXXXV. Part I. p. 310: Of the Office of Postmaster-General, 1677.

always sensitive for Slavery, after expressing regret that bodily infirmity disabled him from declaring the strength of his convictions in regard to the evils which would flow from this measure, protested against its adoption as "more radical and revolutionary than anything ever done in Congress." The Senator denounced it as most unjust, and predicted that in ten years the Post-Office would cost the Treasury $10,000,000.[1] The newspaper press, though not so fervid, was as skeptical as the South Carolina Senator; and the Postmaster-General showed the very disposition which had given to his brother officials in England the designation of "unwilling horses." In his first Report after the passage of the law, he announced a prospective deficiency for the current year exceeding $1,250,000, and, unless there should be some amendment of the law, another deficiency the next year of little short of $1,000,000.[2] Now mark the result of even this too slight reduction. The actual deficiency for 1845–6 was only $597,097,[3] and for 1846–7 it was but $33,677,[4] while in 1848–9 there was a surplus revenue of $226,127.[5] The letters in 1845 were estimated at 39,958,978; and in 1849 at 60,159,862,[6] showing an increase in four years of more than fifty per cent.

[1] Speech in the Senate, February 8, 1845.

[2] Report of Postmaster-General, December 1, 1845: Executive Documents, 29th Cong. 1st Sess., H. of R., No. 2, p. 855.

[3] Report, December 7, 1846: Ex. Doc., 29th Cong. 2d Sess., H. of R., No. 4, p. 682.

[4] Report, December 6, 1847: Ex. Doc., 30th Cong. 1st Sess., H. of R., No. 8, p. 1314.

[5] Report, December 3, 1849: Ex. Doc., 31st Cong. 1st Sess., H. of R., No. 5, p. 776.

[6] Miles, Postal Reform, (New York, 1855,) § 34, pp. 25–27; also, History of the Post-Office, — Bankers' Magazine, (New York,) November, 1857, Vol. XII. p. 364.

Every reduction of postage in our country exhibits similar results. According to the ratio of reduction has been the ratio of increase in the number of letters. It may surprise Senators to know, that, while the estimated number in 1852 was 95,790,524,[1] it reached in 1868 to 488,000,000, in the estimate of the Post-Office.[2] But this is only according to the prevailing impulsion from a reduction in price. In England, where the rate was smaller, the number of letters was much larger, being in 1867, as estimated, no less than 774,831,000.[3] This becomes more remarkable, when it is considered that the estimated population of the United States at the time was more than forty millions, while that of the United Kingdom was thirty millions, — making twelve letters annually for each person in the United States, and twenty-six letters annually for each person in the United Kingdom.

ILLEGITIMATE BURDENS ON CORRESPONDENCE.

To understand the justice of the proposed reduction in our country, we must analyze and consider existing obligations of the postal service. I mention two, through which we may see the unjust operation of the present tax on correspondence: first, the well-known franking system, and, secondly, the millions of newspapers, by which an inconceivable amount of mail matter is made a burden on the Post-Office, tasking its transportation and its means of delivery. Although printed matter, unfranked, is charged with postage, it is not in proportion to its burden on the postal service;

[1] Miles, *ubi supra*.

[2] Letters from Postmaster-General, February 26 and May 21, 1870: Executive Documents, 41st Cong. 2d Sess., Senate, No. 53, p. 8, and No. 86, p. 2.

[3] See, *ante*, p. 418.

so that the letter not only pays for itself, but contributes to the other. The letter, so small in dimension and weight, but with its own unseen freight of business or friendship, is made to carry an additional load. Every letter is a dwarf shouldering a giant; or stating the case with absolute literalness, it is a sheet of paper compelled to bear free matter and printed matter measured by the ton. This little messenger, whose single function necessarily requires dispatch, is charged with this intolerable mass. No wonder that it staggers under the load heaped upon it. No wonder that the people are obliged to pay high postage; for, on receiving a letter, they not only pay the price of its transportation and delivery, but they contribute to the transportation and delivery of everything else carried by the mails.

But even this burden could be borne, if the whole service were not charged with the cost of transportation and postal facilities in distant parts of the country, where there is necessarily a disproportionate expense, — so that a letter in certain States, after paying for its own transportation and delivery, and contributing to the transportation and delivery of free matter and printed matter, contributes still further to those long lines of service by which the most remote places are supplied and the post-office follows close in the footsteps of the pioneer. This is beautiful, but it is not just; in other words, it is beautiful that these opportunities should be afforded, but it is not just that the correspondence of others should pay for them. Nor should these extraordinary expenses be charged on these remote places, or on the pioneer. They belong properly to the necessary outlay in opening the country, by which the nation, the great untaxed proprietor, finds a

market for its land and new scope for its growing empire. Obviously this outlay should be charged to the Treasury, rather than saddled upon the postal service, as it is now.

EXPENSE OF OUTLYING ROUTES.

THE last Report of the Postmaster-General shows the operation of the existing system in this respect. By the Statement of Receipts and Expenditures for 1868–9, it appears that in no less than sixteen States and Territories, including the District of Columbia, the Post-Office was more than self-supporting, there being an excess of receipts over expenditures of $3,571,315; while in the other States and Territories there was an excess of expenditures over receipts amounting to $4,727,175.[1] The self-supporting list, with each surplus, is as follows:—

States and Territories.	Receipts.	Expenses.	Excess of receipts over expenditures.
Maine	$309,244.35	$293,667.27	$15,577.08
New Hampshire	198,238.89	165,370.21	32,868.68
Massachusetts	1,389,731.76	740,121.42	649,610.34
Rhode Island	149,800.95	76,046.78	73,754.17
Connecticut	418,048.99	312,415.28	105,633.71
New York	3,818,667.45	2,186,196.21	1,632,471.24
New Jersey	343,192.64	297,402.18	45,790.46
Pennsylvania	1,734,987.75	1,135,969.06	599,018.69
Delaware	49,291.11	45,496.69	3,794.42
Ohio	1,185,718.44	1,166,145.19	19,573.25
Michigan	550,107.68	537,012.97	13,094.71
Illinois	1,442,300.26	1,125,034.22	317,266.04
Iowa	438,636.79	398,381.21	40,255.58
District of Columbia	123,422.70	111,746.40	11,676.30
Alaska	316.72	150.00	166.72
Wyoming	18,086.09	7,322.37	10,763.72
Total	$12,169,792.57	$8,598,477.46	$3,571,315.11

[1] Report of Postmaster-General, November 15, 1869, pp. 104–5: Executive Documents, 41st Cong. 2d Sess., H. of R., No. 1.

Here I ask confidently, considering the nature of the Post-Office and the unquestionable importance of encouraging correspondence, if it is just that the letter-writers in one part of the country should be constrained to make the large contribution attested by this table, for the benefit especially of those at a distance, and also of the country at large. Rejecting again all idea of casting this expenditure upon the distant places and the pioneer, I insist that it should be borne by the Treasury rather than by remote letter-writers.

It is easy to exhibit the extent of this charge, and its palpable injustice. Begin with an illustration. Suppose a common carrier, with an interest beyond his business in an undeveloped part of the country at some distance from his daily line, makes a deviation to this outlying settlement at a daily loss, but looking to the growth of his interest there for ultimate remuneration. It would not be just for him to levy on all his customers along the main line for the expense of this deviation, — making them not only pay for their parcels, but contribute to the development of the outlying settlement. Nor would this enforced contribution commend itself, if urged in the name of charity or as a patriotic service to an infant community. The customers would insist that their parcels should pay only the legitimate cost of transportation and delivery; or they would soon find another carrier, who would charge them simply for their parcels, without adding the cost of opening new settlements. But the National Government is our common carrier, turning aside at great expense to develop and supply new places, to its great ultimate advantage in the sale of public lands, the growth of population, and increase of the revenue; but it is not justified in

casting this large expense on the correspondence of the people.

Already the Nation assumes the expenses of the Territories before their admission as States, paying the salaries of their various officers and the cost of administration. For equal reason the Nation should assume the expenses of these outlying post-routes.

By the kindness of the Postmaster-General I am enabled to present from the records of the Department two authentic testimonies. There is the post-route from San Antonio to El Paso, a distance of seven hundred and four miles, with the annual cost of service, $126,601, and the annual receipts from offices on the route, $3,137. There is also the post-route from Kelton, Utah, to the Dalles, Oregon, seven hundred and sixty-five miles, with the annual cost of service, $130,278, and the annual receipts from offices on the route, $3,822. Other instances might be adduced, but these are enough to show how seriously the postal service is burdened by obligations which plainly belong to the Treasury.

In former debates of the Senate, an incident was mentioned by Mr. Crittenden, of Kentucky,[1] which illustrates the character of these unproductive lines. During a journey in Tennessee in the summer of 1844, the Senator had occasion to go to an outlying post-office in the interior of the State, on reaching which, late at night, he found the postmaster had gone to bed, leaving the mail-bags in the wagons. To his inquiries concerning this singular circumstance, "Why, Sir," responded the official, "we don't take the bags out at all; we don't even look into them; it is so seldom we receive any-

[1] Speech on the Postage Bill, February 7, 1845: Congressional Globe, 28th Cong 2d Sess., p. 258.

thing, we don't think it worth while." And upon investigation it in fact appeared that there was not a letter in any one of these bags, and had not been for a month. But this costly mail-service was at the expense of the correspondence elsewhere. The letter of the distant seaboard was a contributor.

DISTANCE ALONE DOES NOT CAUSE EXPENSE.

SOMETIMES it is supposed that the great distances of our country cause the large expense; but this is a mistake, founded on superficial observation. The large expense proceeds from something besides distance. Here I quote the words of Rowland Hill: —

"It is not matter of inference, but a matter of fact, that the expense to the Post-Office is practically the same, whether a letter is going from London to Barnet [eleven miles] or whether it is going from London to Edinburgh [four hundred miles]; the difference is not expressible in the smallest coin we have."[1]

I have already mentioned that the actual cost of transportation from London to Edinburgh was only one thirty-sixth of a penny, and this was the average for all letters throughout the United Kingdom. With so small a fraction of a penny representing the cost of the longest line, it was apparent that the element of distance must be eliminated from the question. A recent writer thus strongly testifies to this rule: —

"If Mr. Hill demonstrated one thing more plainly than another, it was that the absolute cost of the transmission of each letter was so infinitesimally small, that, if charged ac-

[1] First Report from Select Committee on Postage, p. 13, — Minutes of Evidence, No. 114: Parliamentary Papers, 1837-8, Vol. XX. Part 1.

cording to that cost, the postage could not be collected. Besides, it is not certain that the one letter would cost the Post-Office more than the other."[1]

But this rule is as applicable in our country as in the United Kingdom, always provided the lines are productive.

This rule, first enunciated by Rowland Hill, was substantially adopted by the Parliamentary Committee, when they say, —

"That it is the opinion of this Committee, that that part of the inland postage on letters *which consists of tax* ought to be the same on all; that, as the cost of conveyance per letter depends more on the number of letters carried than on the distance which they are conveyed, the cost being frequently greater for distances of a few miles than for distances of hundreds of miles, the charge, if varied in proportion to the cost, ought to increase in the inverse ratio of the number of letters conveyed; but as it would be difficult, if not impossible, to carry such a regulation into practice, and as the actual cost of conveyance (assuming the charged letters to bear the whole expense of the franked letters and of the newspapers) forms less than the half of the whole charge exclusive of tax, the remaining portion consisting chiefly in the charges attendant on their receipt at and delivery from the Post-Office, your Committee are of opinion that the nearest practicable approach to a fair system would be to charge a uniform rate of postage between one post-town and another, whatever might be their distance; and your Committee are further of opinion that such an arrangement is highly desirable, not only on account of its abstract fairness, but because it would tend in a great degree to simplify and economize the business of the Post-Office."[2]

[1] Lewins, Her Majesty's Mails, (2d edit.,) p. 172, note.

[2] Third Report from Select Committee on Postage, p. vi: Parliamentary Papers, 1837-8, Vol. XX. Part 1.

All this is plainly reasonable, whether in the United Kingdom or the United States.

The actual cost of each letter is inversely as the number of letters, irrespective of distance. The weight enters very little into the question. Take, for instance, a route of ten miles, at ten cents a mile, and another of one hundred miles at the same rate. If on the route of ten miles there is an average of only one letter, as is the case on some routes, this one letter would cost one dollar, while ten thousand letters on the route of one hundred miles would cost only one mill a letter. The Post-Office pays a fixed compensation for the daily transportation of its mails between certain places, and this compensation is not varied by any addition to the number of letters. Therefore on all productive or paying lines, as between Washington and New York, and then between New York and Buffalo, additional letters may be received for distant places, without adding to the cost, until the letters reach St. Louis or New Orleans, or any other place accessible by a self-supporting line, and the actual cost of a letter for the longest distance will be no more than for the shortest. It will be the same alike to New Orleans and to New York. Thus on the assumption of a continuous self-supporting line the question of distance does not enter into the cost, and thus again we see the injustice of compelling the correspondence on such a line to the contributions it is now obliged to make.

EXISTING RATE NOT OPPRESSIVE A FALLACY.

HERE I encounter an old-fashioned objection common in England as well as in the United States, and which

has shown itself at every proposed change in the postal service. It is said that the existing rate is not oppressive, and that there is no need of its reduction. Obviously it is not oppressive to Senators and Representatives, who send and receive unnumbered letters free; nor is it oppressive to their correspondents; nor again is it oppressive to the rich and thriving, for they contribute out of their abundance; but plainly and indubitably it is oppressive to the poor, and it is absurd to say that it is not. Plainly and indubitably it is oppressive to the widowed mother, whose best comfort is correspondence with her absent child; it is oppressive to the child corresponding with mother, sister, or brother; it is oppressive to all whose scanty means supply only the necessaries of life. All these are restrained in the gratification of those affections which contribute so much to human solace and strength.

Do not say that practically there is little difference between three cents and one cent, — that the difference is hardly appreciable. A great mistake. Is it not appreciable in the cost of tea, coffee, and sugar? The reduction of one cent a pound in the tariff on sugar, of two cents on coffee, or of a few cents on tea, is not treated as trivial.

There is the poor pensioner with eight dollars a month. She, too, has family and friends; but the postal tax interferes to arrest the congenial intercourse. Every letter adds to the burden she is obliged to bear. Her fingers forget the pen, and she finds herself alone. Nor is this hardship peculiar to the poor pensioner. An eminent citizen and valued friend, who has given much attention to this subject, states the case thus: "When one of my children is absent, I write a line every day.

Suppose I were a poor widow, earning barely enough to make the two ends meet, and had children in the West, to each of whom I should want to write at least once a week, making in all several dollars a year; then the cost would be oppressive." This simple illustration brings home the operation of the postal tax now imposed by law, and shows how it troubles those who most need the care and tenderness of the world. The tax on letters is like the tax on salt. If it must exist, it must be small, very small.

There are some who think that no existing institution is oppressive. According to them, Slavery was not oppressive. In the same mood, the law of 1845, with its two rates of five cents and ten cents, and then again the law of 1855, by which the rate of five cents was reduced to three cents, were pronounced unnecessary. The multifarious rates anterior to 1845 were not oppressive, and in 1855 there was no call for the reduction of the rate from five cents to three cents. Such was the argument then, precisely as now. So in the days of Slavery it was argued that the slaves did not desire freedom, and that their condition was not oppressive. The great reform of Rowland Hill encountered the same objection. Even Lord Ashburton, while favoring a change, was content with twopence or threepence, and, in his testimony, settled down upon threepence as satisfactory. He shrank from the penny rate.[1] This question was treated with excellent sense by Mr. Jones Loyd, whom I have already quoted, whose testimony bears strongly on this very objection. After saying "that the present rate of postage does in point of fact produce a prohibi-

[1] Second Report of Select Committee on Postage, p. 149, — Minutes of Evidence, Nos. 8134, 8135: Parliamentary Papers, 1837-8, Vol. XX. Part 2.

tion of the use of the Post-Office to all classes that may be considered as below the higher classes,"[1] the attention of the witness was called by the Committee to the allegation "that the laboring classes do not feel the oppressive rate of postage." He replied in words of wisdom worthy of memory now, and completely applicable to the very question now before the Senate:—

"The habits of a people are in a great degree the result of the laws under which they live; the high charges of our Post-Office have induced, amongst all but the richer classes, a habit of abstaining from epistolary communication, and it might take some time to correct that habit. But it appears to me very desirable that the impediment should be removed; and I have no doubt, that, in the course of a short time, as the poorer classes have the common affections of the human breast, they would form a taste for the pleasures to be derived from intercourse with absent friends and relations. It would be very desirable, for the moral interests of the community, that every facility should be afforded for that purpose."[2]

On the "oppression of a tax," where persons do not use the article taxed, the intelligent witness testified as follows:—

"They may not know the loss they sustain; but that does not alter the fact that they do sustain a very great loss; and it would be highly criminal and cruel voluntarily to inflict such a loss upon a person merely upon the ground that he does not know it. A child that is born blind does not know the advantages of sight; but still it would be a very extraor-

[1] Second Report of Select Committee on Postage, p. 303,—Minutes of Evidence, No. 10362: Parliamentary Papers, 1837-8, Vol. XX. Part 2.
[2] Ibid., Minutes of Evidence, No. 10363.

dinary thing to inflict blindness upon a child, merely upon the ground, that, if you do it, in time he will not know the loss he has sustained."[1]

All this is plain and unanswerable. The oppressiveness of a tax is not to be measured by the insensibility of the people on whose shoulders it is laid. It is a curiosity of despotism that the people are too often unconscious of their slavery, as they are unconscious also of bad laws. A wise and just Government measures its duties not by what the people bear without a murmur, but by what is most for their welfare; and it is to this criterion that I bring the question of cheap postage. Say not that the people are indifferent and do not ask for this reduction. Is it not for their good? Is not the advantage so eminent and unequivocal that the Government can no longer hesitate, especially at this transitional moment, when our country is passing from the Old to the New, and the people more than ever are assured in their rights?

JUSTICE AND PRACTICABILITY OF ONE CENT POSTAGE.

After this exhibition of existing burdens, so prejudicial to the correspondence of the country, I return again to the main postulate of this argument, that a uniform rate of one cent for a letter of half an ounce is entirely reasonable, and in a short time, with proper relief in other directions, would render the Post-Office self-supporting. Here I introduce the testimony of a gentleman practically conversant with the operations of our Post-Office, who writes to me as follows:—

[1] Second Report of Select Committee on Postage, p. 303,—Minutes of Evidence, No. 10364.

"Taking the weight of the letter mail-matter and the printed mail-matter, and charging the expense of transportation upon each proportioned to the weight, and one cent is all that would be relatively chargeable upon each half-ounce of letter mail. I speak from close daily observation in a large office, in a region that is a large revenue-paying one to the Department on all mail-matter."

This testimony of an expert is only in harmony with my own conclusion.

This injustice becomes more apparent, when we consider the disproportion between the cost of other transportation and letter postage. Take, for instance, the fare of a passenger on a railway in comparison with that of a letter. The average weight of passengers with their baggage is supposed to be 230 pounds, which is the weight of 7,360 half-ounce letters, paying, at the present rate of three cents, $220.80, irrespective of distance. The following table, prepared some time ago, shows the cost of other transportation: —

From Boston —	Passenger fare.	Mills per half oz.	Express freight. 230 lbs.	Mills per half oz.
To New York	$4	.5	$1.50	.2
" Philadelphia	7	.9	3.50	.5
" Baltimore	10	1.3	5.50	.7
" Cincinnati	25	3.4	10.50	1.4
" St. Louis	35	4.7	12.00	1.6
" New Orleans	45	6.1	14.00	1.9
" Liverpool per Cunard steamers . .	120	16.3	7.20	.9

In other transportation there is a slight increase in proportion to the distance; but it is difficult to see on what principle a mail-bag between Washington and New York should pay more than a passenger; and the same difficulty occurs when we consider ocean post-

age, where the disproportion between postage and other transportation is, perhaps, more conspicuous. Elihu Burritt, who has enforced the importance of cheap rates on the ocean with admirable comprehension of their importance, has reminded us that the freight of a barrel of flour, weighing two hundred pounds, is about fifty cents, while the charge for the same weight in half-ounce letters, being sixty-four hundred in number, at the rate of twenty-four cents a letter, would be no less than $1,536, and at the rate of one cent would be sixty-four dollars. These instances show that letters have been always overcharged, or charged out of proportion to their weight.

To my mind it is unjust that the letter everywhere should contribute so largely to the transportation and delivery of other mail matter, while in some parts of the country it contributes besides to postal facilities elsewhere. I think I do not err, when I aver, that, even with the latter burden, the Post-Office, if it carried nothing but letters, *and every letter paid one cent*, would be self-supporting. I put the case in this way so as to exhibit the essential equity of the proposed reduction, and, I would add, its entire practicability. Although the Post-Office cannot be relieved of the other mail-matter, yet the letters can be relieved of the burdensome contribution to which they are now subjected. One cent postage would give new operation to the law according to which reduction of price tends to produce consumption, and there would be a new impulsion to correspondence, by which in a short time it would be doubled, tripled, quadrupled, quintupled, and sextupled, — nay, in our growing country it would be multiplied beyond calculation.

As to this increase, I have already shown something of its progress in Great Britain, beginning with one hundred and twenty-two per cent. the first year of penny postage.[1] Why may not the same take place with us? According to the official table now on our desks, the smaller population of the United Kingdom sends more letters than ours. It would be difficult to credit this result, if the figures did not tell the tale beyond correction. Here is the table:[2]—

Proportion of Letters and Revenue to Population.	United States, year ending June 30, 1868.	United Kingdom, year ending Dec. 31, 1867.
Population (estimated)	40,092,356	30,305,284
Number of letters delivered (estimated)	488,000,000	774,831,000
Number of letters to each person . .	12	26
Gross revenue	$16,232,148.16	$23,341,070
Amount of revenue to each person of aggregate population	40 cents	77 cents

Testimony could not be stronger. The smaller population sends a larger sum-total of letters, making of course a larger number for each person, and yielding a larger gross revenue. It is humiliating to think that the people of this Monarchy send at the rate of twenty-six letters for each person, while the citizens of our Republic send only at the rate of twelve for each person. The inverse disproportion of letters becomes the more remarkable, when it is understood that the proportion of people who can read and write is greater among us than in the United Kingdom, so that, all other things being equal, the number of letters by each person should be greater among us; but we are obliged to confront the

[1] *Ante*, p. 417.

[2] Letters of Postmaster-General, February 26 and May 21, 1870: Executive Documents, 41st Cong. 2d Sess., Senate, No. 53, p. 8, and No. 86, p. 2.

unquestionable fact that the number is less. How is this? Why is this? I know no way of accounting for it except in the discouraging cost of correspondence. Here I find unquestionable reason to conclude that we have not a proper rate of postage. Clearly something is wanting. It is not education; for the people among us excel the British people in this respect. It is not business, or family, or friendship; for are not all these active with us? I submit that we want nothing but cheap postage, so that the people, finding their means in harmony with the rates, shall be tempted to write letters. So it was in England; and so it may be among us.

Against the entire reasonableness of the proposed rate, it will not do to say that in the wages of English labor a penny is the equivalent of three cents among us. Even if it be so, there is a twofold answer to the allegation: first, that convenience and reason concur in favor of the lowest unit of coin, which with us is the cent, as in England it is the penny; and, secondly, that with us the general scale of salary and expenditure is less than in England, beginning with the President as compared with the Queen, and embracing the functionaries of Government in the two countries. The penny, which is a larger unit than the cent, typifies the larger scale of price; so that our postage will be brought to practical equality with that of England only by the adoption of the corresponding unit of our country. If this seems refined or technical, let me add that I adduce it only in answer to an objection, which forgets not only the beauty of that simplicity found in the lowest unit of coin, but also that fundamental difference between England and the United States found in their respective institutions.

POSSIBLE LOSS OF REVENUE.

HERE I am reminded of the possible loss of revenue, and this is set up as an insuperable barrier; but I confess, that, when I regard the infinite good from this reform, I am little concerned by any such prospect. Better any possible loss of revenue than the postponement of such a good. Nobody can say positively what the loss will be. It is only an estimate, or, if you please, a guess. Some may make it high, others low. According to the last Reports of the Postmaster-General, the actual deficiency, with the rate of three cents, was $5,353,620, and the estimated deficiency for 1870 is $7,440,413; but in both cases the expenditures are swollen by illegitimate and extrinsic charges on the Post-Office properly belonging to the Treasury. For 1871, with the rate at three cents, the estimated expenditures, swollen by the illegitimate and extrinsic charges, are $25,581,093, with receipts, $20,178,961, leaving a deficiency of $5,402,132.[1]

Making the estimate for 1871 with the rate of one cent, and assuming an increase in correspondence at only one hundred per cent., there would be a deficiency of $12,128,452, from which should be deducted the illegitimate and extrinsic charges properly belonging to the Treasury. Considering these for one moment, you will see how small the deficiency will be; and here I follow the last Report of the Postmaster-General, who does not hesitate to estimate the proportion of free matter in the mails at twenty-five per cent. of the whole, so that, ac-

[1] Reports of Postmaster-General, December 3, 1868, p. 2, and November 15, 1869, p. 3: Executive Documents, H. of R., No. 1, 40th Cong. 3d Sess., and 41st Cong. 2d Sess.

cording to him, "it will appear that the Government is bound in honor and justice to appropriate $5,000,000, instead of $700,000 [the present appropriation], for this service."[1] But with the abolition of the franking system all this postal matter will pay the ordinary rate, and thus contribute to the postal service. Deduct also another sum for the expenditures of outlying routes, justly chargeable upon the Treasury, like the existing franking system.

Such is the whole case as to any possible loss of revenue, which I state with entire frankness; but I cannot doubt that a short period would witness a change, while the people entered into the enjoyment of their great possession. Letters would daily multiply, and the revenue would bear witness to the increase.

THE POST-OFFICE NOT A TAXING MACHINE, BUT A BENEFICENT AGENCY.

ONLY in obedience to traditional usage have I dwelt thus long on the financial aspect of this question, which to my mind is the least important of all. Not to make money, but to promote the welfare of the people, and to increase the happiness of all, — such is the precious object I would propose; and here I ask no such question as, "Will it pay?" It may not pay in revenue at once, but it will pay in what is above price. Unhappily, the Post-Office, whether at home or abroad, has been from the beginning little more than *a taxing machine*, a contrivance to raise money, or a "milch cow" with fruitful dugs. In England it was at times farmed out to a speculator, and then again it was charged with the sup-

[1] Report of the Postmaster-General, November 15, 1869, p. 27.

port of a royal mistress or favorite. For its profits only was it regarded, and not for its agency in the concerns of life. In this respect it was not unlike the Government, which was simply a usurpation for the benefit of the few. All this is now changed, at least among us, and Government is the creation of the people for their good. The Post-Office should share this transformation. Instead of a mere taxing machine, or contrivance to raise money, or "milch cow" with fruitful dugs, it should be an omnipresent beneficent minister, reaching its multitudinous hands with help and comfort into all the homes of our wide-spread land. Such it is already in England, to the infinite joy of all. But the omnipresent beneficent minister belongs to a republic more than to a monarchy. Cheap postage is a republican institution. If England has anticipated us, we may at least profit by her example.

It is because Senators see the Post-Office only in its least elevated, not to say its most vulgar character, that there is any hesitation. Contemplate for one moment, if you please, its great and beautiful office. It is the universal messenger of a people, bearing tidings of all kinds, whether of business, hope, affection, charity, joy, or sorrow, and articulating them throughout the land. There is nothing that man can do, desire, or feel, which is not contained in the various and abounding errand. The letters of a single day are the epitome of life, and this service is unceasing. Every day this messenger flies over the land, from city to city, from town to town, from village to village, from house to house, leaving everywhere the welcome token. Such a messenger is more than a winged Mercury, with sandalled feet and purse in hand, whose special care was commerce; it is

an angel in reality, as in name. In the ancient Greek, from which the word is derived, an angel was a messenger; and is not the office of our messenger angelic? But by what rule or reason can you tax such a messenger in his great and beautiful office?

A letter is simply conversation in writing, and therefore, by strictness of logic, the tax you impose is a tax on conversation. Reflect a moment on the part performed by conversation in the education of men and in the economies of life; and here I give you testimony. Once at Mr. Webster's table I heard the question discussed, "From what do men derive most of what they know?" The scholars about him answered, — one naming "Our Mothers," another "Schools," another "Books," another "Newspapers," when the host, who had listened to each, remarked, very gravely, "You forget Conversation, from which, in my judgment, we derive the larger part of what we know." Who shall say that Mr. Webster was not right? It is clear that conversation is a wonderful educator and a constant servant. But conversation in writing, no matter on what subject, whether of business or of the heart, is now subject to an unrelenting tax, so that persons conversing by letter must not only pay the cost of the intermediary in their own case, but must contribute to the expense of other conversations elsewhere.

THAT THE POST-OFFICE MUST SUPPORT ITSELF A FALLACY.

CUSTOM makes us insensible to folly, and even to injustice. Thus the tax on letters has gained an undeserved immunity, which is augmented by a prevailing

notion, sometimes supposed to find authority even in the Constitution, that the Post-Office must support itself. Whether regarded as rule or maxim or provision of the Constitution, it is without foundation, and sooner or later will be classed with those "vulgar errors" which are as disturbing in government as in science. There is nothing in the Constitution or in reason to distinguish the Post-Office in this respect from the Army, the Navy, or the Judiciary. The Constitution confers upon Congress the power "to establish post-offices and post-roads," precisely as it confers upon Congress the power "to raise and support armies," the power "to provide and maintain a navy," and the power "to constitute tribunals inferior to the Supreme Court"; and in each of these cases it is empowered "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Nobody suggests that now in peace our armies shall amplify their commissariat by enforced contributions, that our navy shall redouble its economies by supplementary piracy, or that our tribunals inferior to the Supreme Court shall eke out a salary by requisitions on the suitors, to the end that each of these departments may be in some measure "self-supporting." Why, then, should the Post-Office be subjected to a different rule? Not, surely, because it is less beneficent; not because it is the youngest child of Government, a very Benjamin, coming into being long after the others. But such is the case. The rule for the others is discarded when we come to the Post-Office, and here for the first time we hear that a Department of Government must be "self-supporting."

As there is no ground in the Constitution for this

pretension, so is there none in reason. Of all existing departments, the Post-Office is most entitled to consideration, for it is most universal in its beneficence. That public welfare which is the declared object of all the departments appears here in its most attractive form. There is nothing which is not helped by the Post-Office. Is business in question? The Post-Office is at hand with invaluable aid, quickening and multiplying all its activities. Is it charity? The Post-Office is the good Samaritan, omnipresent on all the highways of the land. Is it the precious intercourse of family or friends? The Post-Office is carrier, interpreter, and handmaid. Is it education? The Post-Office is schoolmaster, with school for all and with scholars counted by the million. Is it the service of Government? The Post-Office lends itself so completely to this essential work, that the national will is conveyed without noise or effort to the most remote corners, and the Republic becomes one and indivisible. Without the Post-Office where would be that national unity, with irresistible guaranty of Equal Rights to All, which is now the glory of the Republic? Impossible! absolutely impossible! Therefore, in the name of all these, do I insist that now, in these days of equality, the Post-Office shall be admitted to equality with all other departments of Government, so that it may discharge its own peculiar and many-sided duties, without being compelled to find in itself the means of support. It has enough to do without taking thought of the morrow. On every side and in every direction it is the beneficent helper. To the Army it is a staff; to the Navy it is a tender; to the Treasury it is a support; to the Judiciary it is a police; to President and Congress it is an adjunct; and to all else, public or

private, whatever the interest, aspiration, or sentiment, it is an incomparable ally. Better than two blades of grass are two letters where was only one before; and when the precious product is measured by millions, you see the vastness of the beneficence.

OUR POST-OFFICE MUST BE THE BEST IN THE WORLD: PRESENT DUTY.

SUCH is the Post-Office; and nothing is clearer than that here in the United States it should be of the highest type. Ours should be the best in the world, — not second to any. So long as Slave-Masters bore sway, this could not be; for they set their faces against this minister of Civilization. One of the first legislative acts of the Rebel Government at Montgomery was to raise the rates.[1] But this hostile obstruction is now overcome, and we are at last free to act for the good of all. It is for the welfare of the people that our Republic is founded, and therefore it should omit nothing by which their condition is improved and elevated. Other Governments may seek to augment the revenue. Our aim should be to augment the sum of human happiness, making it the crown of our whole people; and just in proportion as we fail in this duty is the Republic a failure. But the best Post-Office is where letters at the smallest charge are faithfully carried to every door, thus combining cheapness and efficiency. That ours may fulfil this condition there must be a change.

[1] For example, on letters of one half-ounce weight or under, the rate for distances not exceeding five hundred miles was made five cents, and for greater distances ten cents. — *Act to prescribe the Rates of Postage*, February 23, 1861, Statute I. Ch. 13: Statutes at Large of the Provisional Government of the Confederate States of America, (Richmond, 1864,) p. 34.

Our duty is simple. It is to relieve the Post-Office of present burdens, including especially the franking system and the expense of unproductive routes, while at the same time we establish a uniform rate of one cent. To these cardinal objects may be added others named in the bill introduced by me, especially the requirement of payment always by stamps, so as to simplify the accounts and to make peculation impossible; but the fundamental change is in the rate of postage.

Could my desires prevail, the Post-Office should be like the Common School, open to all, with this only condition, that the rate should be sufficient to guard against abuse. But this is accomplished by that now proposed.

Let the uniform rate be one cent and you will witness a transformation. The power to frank, which is now confined to a few, will practically belong to all, and letters will be multiplied in proportion, — opening to the people an inexhaustible source of all good influences, whether of education, wealth, virtue, or happiness, while the Republic rises in the scale of civilization. Such a rate will be better than a mine of gold in every State, — better than a band of iron for the Union, — better than a fortress scowling on uncounted hilltops; for it will be an angelic power.

And could this rate be extended to international postage, its least service would be to our commercial relations. Beyond this would be an inconceivable influence on that immigration to our country which is a constant fountain of life, while it carried into the homes of the Old World the most seductive invitations to take part with us in our great destinies. Republican ideas would

be diffused, and the Rights of Man gain new authority. Every letter from glowing firesides among us, when read at colder firesides abroad, would be a perpetual proclamation of the Republic.

More than ever this change is needed now. It is essential in the work of Reconstruction, which can be maintained only through the national unity. The very extent of our country, which is superficially urged as the apology for a high rate, is to my mind an all-sufficient reason for the proposed reform. Because our country is broad and spacious, therefore must distant parts be brought into communication and woven together by daily recurring ties. Because our people are various in origin and language, therefore must they be enabled to commingle and become homogeneous. And, lastly, because fellow-citizens have suffered and been separated by terrible war, therefore must the Post-Office become a good angel to quicken industry, to remove ignorance, to soothe prejudice, and to promote harmony. Blessed are the peace-makers; and in this company the Post-Office, properly reformed, will take an illustrious place.

CHINESE INDEMNITY FUND.

REPORT IN THE SENATE, OF THE COMMITTEE ON FOREIGN RELATIONS, JUNE 24, 1870.

THE Committee on Foreign Relations, to whom was referred the message of the President of March 10, 1870, covering a report of the Secretary of State and correspondence concerning the Chinese Indemnity Fund, also certain petitions on the same subject, have had the same under consideration, and beg leave to report.

THE origin and history of the Chinese Indemnity Fund are found in authentic documents, so that little need be done except to state the case from these authorities.

The British and French expeditions of 1858, which, after capturing Canton, turned their combined forces toward Peking, and ascended the Pei-ho as far as Tien-tsin, opened the way to the presentation of claims of our citizens, which were promptly recognized by the Chinese Government. Though taking no part in the war, our people profited by the result. The convention that ensued was born of the war.

THE CONVENTION AND PAYMENT OF CLAIMS.

CLAIMS were brought forward amounting to more than one and a quarter million of dollars; but Mr. Reed, our

Minister in China, concluded, after examination, that 600,000 taels, or about $840,000, was a proper estimate for all rightfully due. Accordingly he entered into an arrangement with the Chinese plenipotentiaries for their prospective liquidation. At first there was nothing but an agreement in correspondence, being a sort of executory contract, which was unsatisfactory in form, incomplete in stipulations, and embarrassed by the condition that in the adjudication of the claims a Chinese officer should take part. All this involved delay, at least, if not more. At last this agreement was embodied in the terms of a convention between the two governments, dispensing with Chinese coöperation, and the amount of damages was reduced to 500,000 taels, to be paid from the maritime revenues of Shanghai, Foo-chow, and Canton, in complete discharge of all demands.[1]

The original agreement was at Tien-tsin, where the Chinese met the British, French, and Russian negotiators; but the convention was finally executed at Shanghai, November 8, 1858. The statement already made appears in the terms of the convention. After setting forth that certain maritime revenues were pledged for the payment of American claims, "to an amount not exceeding 600,000 taels," the convention proceeds to declare, "And the plenipotentiary of the United States, actuated by a friendly feeling towards China, is willing, on behalf of the United States, to reduce the amount needed for such claims to an aggregate of 500,000 taels"; and then it is agreed "that this amount shall be in full

[1] Report of Mr. Fish, Secretary of State, March 10, 1870, with Copy of Convention, November 8, and Letter from Mr. Reed to Mr. Cass, November 10, 1858: Executive Documents, 41st Cong. 2d Sess., Senate, No. 58, pp. 3, 14-17.

liquidation of all claims of American citizens at the various ports to this date."[1]

Mr. Reed, in communicating this treaty to the Department of State, says, under date of November 10, 1858:—

"Nor has there been any great difficulty in effecting it, the Chinese plenipotentiaries showing no disposition to evade the agreement they had entered into at Tien-tsin, and being quite willing to arrange the details on reasonable grounds."[2]

The Minister then proceeds to say, that his first duty — "not the less binding because to the Chinese" — was to revise the claims themselves, and ascertain whether, after giving credit for such as had in the mean time been settled and paid, and applying some clear principle of law, the aggregate could not be reduced; and he adds, that "the amount assumed at Tien-tsin was an arbitrary one." In order to arrive at a more precise result, he called upon the claimants for a revised statement of their demands. In many instances the requisition was complied with; in others it was made the occasion for "all sorts of speculative and contingent claims, — such, for example, as a vice-consul asking to be remunerated for fees that he might have made, and the captain of a steamer claiming the profits of a year to come." Notwithstanding these instances the claims were revised in a proper spirit, and were sensibly reduced by the claimants themselves. Still there were many of a contingent character. On a careful review of all the evidence before him, the Minister was satisfied that he could materially reduce the amount to be

[1] Executive Documents, *ut supra*, p. 14. Statutes at Large, Vol. XII. p. 1081.

[2] Executive Documents, *ut supra*, p. 16.

demanded, which was accordingly done. In the draught of the convention first submitted to the Commissioners at Shanghai, the amount stated was 525,000 taels, with a provision, that, in case of excess beyond the claims and interest, it should be refunded to the Chinese Government; on which the Minister remarks: "They preferred, however, the small sum without such provision, evidently thinking it was their best policy to get rid of the matter forever."[1] The language of the Commissioners was: —

"We acknowledge the consideration and kindness of your Excellency in this matter, in that you have, of your own accord, reduced the first amount of claims, and now place the total at 525,000 taels. We have taken the matter into full consultation, and propose, that, if a further reduction of 25,000 taels be made, fixing the total amount at 500,000 taels, then custom-house certificates can be issued at Canton, Shanghai, and Foo-chow, dating from the first day of our next year, (February 3, 1859,) which can be successively applied to the gradual payment of the entire sum."[2]

These terms were embodied in the final convention between the parties.

After this exposition, the Minister declares that the convention, if ratified by our Government, and carried into execution by the Chinese, as he did not doubt it would be, would liquidate every claim on China by citizens of the United States, principal and Chinese interest at twelve per cent. per annum, on most of the claims for three years, and for a longer period on others, among which was one as ancient as 1847, which had occupied the attention and excited the sympathies of many of his predecessors.

[1] Executive Documents, *ut supra*, pp. 16,17. [2] Ibid., p. 20.

The Minister appends a tabular statement of claims, with a list of what he calls "Claims Suspended," among which is one known as "The Caldera," to which reference will be made hereafter. He then says:—

"A sufficient sum can be reserved to cover these claims, *all of which are more or less doubtful.*"

And adds:—

"If they be recognized, and the principle of paying interest be adopted throughout, the fund will be exhausted. If they be disallowed, though interest be paid to all the other claimants, there will be a surplus at the disposition of the Government."[1]

Thus early was there anticipation of a surplus.

At the same time the Minister suggested that Congress should provide for the adjudication of the claims and a dividend among claimants. This was done by the Act of March 3, 1859, entitled "An Act to carry into effect the Convention between the United States and China, concluded on the 8th of November, 1858, at Shanghai,"[2] authorizing the appointment of commissioners "to receive and examine all claims which may be presented to them under the said convention, according to the provisions of the same, the principles of justice and International Law,"—and further providing "that the said commissioners shall report to the chief diplomatic officer in China the several awards made by them, to be approved by him," which are to be paid out of the revenues set apart for this purpose, in ratable proportion, "according to the direction of the said diplomatic officer."

[1] Executive Documents, *ut supra*, p. 18.
[2] Statutes at Large, Vol. XI. p. 408.

The examination of the claims was completed in January, 1860, and the payments directed by the Commissioners were duly made. Then occurred a condition of things almost without precedent in the relations of nations. After all the payments directed by the Commissioners, a large surplus was found in the custody of the legation at Peking, which was subsequently transferred to the United States. This surplus, with accumulations of interest and gain by exchange, less an amount paid under authority of an Act of Congress approved February 22, 1869,[1] has been invested in Ten-Forty bonds, which are now held by the State Department, amounting at par to $386,000. Another amount of $206.87 in cash is also in the possession of the Department; and about $2,000 remain in the custody of the Minister to China, who has been directed to make remittance of the same.[2]

The Secretary of State, in his Report on this subject, as late as March 10, 1870, says that he "is not aware of any claims against this fund which have not been considered by the Commissioners and determined by them."[3]

PROPOSITIONS WITH REGARD TO SURPLUS.

THIS surplus has been the subject of discussion for more than a decade of years. During all this time it has been before Congress without any definitive action. As long ago as December, 1860, it was thus noticed by President Buchanan in his Annual Message:—

"After the awards shall have been satisfied, there will remain a surplus of more than $200,000 at the disposition of

[1] Statutes at Large, Vol. XV. p. 440.
[2] Executive Documents, *ut supra*, p. 3. [3] Ibid.

Congress. *As this will in equity belong to the Chinese Government*, would not justice require its appropriation to some benevolent object in which the Chinese may be specially interested?"[1]

Nothing was done by Congress, and President Lincoln, in his Annual Message of December, 1861, thus followed in the footsteps of his predecessor:—

"I repeat the recommendation of my predecessor, in his Annual Message to Congress in December last, in regard to the disposition of the surplus which will probably remain after satisfying the claims of American citizens against China, pursuant to the awards of the Commissioners under the Act of the 3d of March, 1859. If, however, it should not be deemed advisable to carry that recommendation into effect, I would suggest that authority be given for investing the principal, over the proceeds of the surplus referred to, in good securities, with a view to the satisfaction of such other just claims of our citizens against China as are not unlikely to arise hereafter in the course of our extensive trade with that empire."[2]

The subject was at this time considered by the Committee on Foreign Relations, aided by the Secretary of State, who laid before the Committee all the original papers relating to the proceedings of the Commissioners. In a communication to the Committee,[3] Mr. Seward stated the case as he understood it, recognizing "the refunding of the whole amount to the Chinese" as one of the methods which "suggest themselves." This was in the summer of 1862, at the most critical period of the war for the suppression of the Rebellion, and the

[1] Executive Documents, 36th Cong. 2d Sess., Senate, No. 1, p. 18.
[2] Executive Documents, 37th Cong. 2d Sess., Senate, No. 1, p. 5.
[3] See Appendix (A).

Committee did not feel disposed at that time to make any recommendation with regard to the fund.

Meanwhile the disposition of this fund was discussed elsewhere. Our distinguished representative in China, Mr. Burlingame, entered upon it with characteristic ardor. Regarding the fund as essentially Chinese in character, if not belonging in equity to China, he urged that it should be devoted to the foundation of an institution of learning at Peking, which he proposed to call The American College, or *Ta-Mei Kwoh Hioh-kung:* first, to teach Americans the language and literature of China, so as to fit them to be interpreters and consuls; and, secondly, to educate Chinese in English studies and in their own literature, with a view to employment by their own rulers or by the United States. The usefulness and practicability of such a college were developed in two elaborate dispatches, — one bearing date Shanghai, May 19, 1862,[1] and the other, Peking, November 18, 1863,[2] in the course of which Mr. Burlingame said that he was "disposed to urge the adoption of this proposal more with a reference to the benefit such a college would be to the Chinese than to ourselves."[3] Not content with thus declaring his desire to make this fund of benefit to them, he says, "In equity the balance appears to belong to the Chinese, but they have no voice in its

[1] Diplomatic Correspondence, 1862-3, pp. 843-6: Executive Documents, 37th Cong. 3d Sess., H. of R., No. 1, Vol. I.

[2] Diplomatic Correspondence, 1864-5, Part 3, pp. 346-8: Executive Documents, 38th Cong. 2d Sess., H. of R., No. 1, Vol. III.

[3] Mr. Burlingame to Mr. Seward, May 19, 1862: Diplomatic Correspondence, 1862-3, p. 844. — This disposition of the surplus appears to have been first suggested as early as November, 1860, in an informal communication to Mr. Cass from Mr. S. Wells Williams, the accomplished Chinese scholar, and interpreter to the U. S. Legation in China. The outlines of the plan there mentioned were afterwards more fully developed in Mr. Burlingame's dispatches.

disposal."[1] His eloquent appeal has thus far been without effect. Nothing has been done to carry out his recommendation, and the question still remains, What to do with the fund?

It is sometimes proposed that this fund should be reserved for the satisfaction of possible claims hereafter. But this would be contrary to the terms of the convention, which expressly provides for the "claims of American citizens at the various ports *to this date*," — thus positively limiting the disposition of the fund. Mr. Burlingame, without referring to the terms of the convention, objected to any such reservation as calculated to produce embarrassment in our relations with China. According to him, "*it would be preferable to return the whole to them*, or distribute the money, as it accrues, to the disappointed claimants, and those Chinese in the employ of our citizens who suffered severe losses in consequence of their connection with them, than to lay it aside for future contingencies to settle with a government like the Chinese."[2] His authority on this proposition may be considered decisive.

But there is another consideration which leads to the same conclusion. Any retention of the fund to meet possible future claims is a plain recognition of the interest, if not the proprietorship of China; and since there is no authority under the convention for its application to possible future claims, it will be at least questionable whether the Chinese Government should not have a voice in the adjudication of such claims. At all events, we shall assume a peculiar responsibility, if we undertake to apply this fund to claims not contemplated by

[1] Mr. Burlingame to Mr. Seward, May 19, 1862: Diplomatic Correspondence, 1862-3, p. 845.

[2] Ibid.

the convention. Nor is there any reason of expediency which can justify such an assumption on our part. China has evinced no disposition to be otherwise than just to American citizens. Although twelve years have elapsed since the date of the convention, there are no outstanding claims against China which have received the sympathy of our Government. Should any such claims arise, it were far better that they should be presented directly, and be satisfied by an award in their favor. Meanwhile the old account should be closed.

A remark of Mr. Burlingame, already quoted, requires one word of comment. He mentions, as a possible course, the distribution of the fund among "disappointed claimants, and those Chinese in the employ of our citizens who suffered severe losses in consequence of their connection with them." Of the Chinese mentioned the Committee know nothing. No claims in their behalf have been presented. But since the award of the Commissioners three different cases have occurred, coming under the head of "Disappointed Claimants." The disposition of these is mentioned at the end of this Report.[1] It does not seem advisable that the fund should be kept to meet such applications. The awards of the Commissioners have been approved by our Minister in China, and the proceedings closed. If they were opened in the case of the Neva, it was because the claimants there had not been heard in China. It is not supposed that any other occasion can arise to open these proceedings. The fund in question cannot be regarded as a charity or largess for the gratification of "disappointed claimants," nor would it be proper for the United States to play such a generous part at the expense of China.

[1] Appendix (B).

Our country has no house for its legation at Peking or for its consulates in other places, nor does it possess any buildings in China which it might use as court-house or jail; and latterly there has been a strong disposition to apply this fund in this direction. Mr. Seward seems to have inclined this way, as appears from his Report to Congress,[1] and Mr. Fish also, as appears from his Report to Congress.[2] But this disposition proceeds on the admission that the fund differs materially from other moneys of the United States, — that, if it does not belong to China, it bears the Chinese earmark so strongly that it cannot be treated as belonging to our national assets. In point of fact, all attempts to cover it into the Treasury have proved unsuccessful.

Petitions from opposite quarters with regard to the disposition of the fund attest a prevailing interest.

At a meeting of citizens in New York, March 11, 1870, a distinguished committee was appointed, with Isaac Ferris, Chancellor of the University, as chairman, with whom as associates were William E. Dodge, President of the Chamber of Commerce, Frederick S. Winston, E. D. Morgan, E. C. Benedict, A. A. Low, John C. Green, James H. Taft, Stewart Brown, and William P. Jones, many of them having large interests in China, who adopted resolutions on this subject to be forwarded to Congress. The first resolution declares, —

"That this Committee is of opinion that the surplus of the Indemnity Fund received from the Chinese under the Convention of 1858, referred to in the Annual Message of President Buchanan to the Second Session of the Thirty-Sixth Congress, and of President Lincoln to the Second Ses-

[1] Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29, p. 4.
[2] Executive Documents, 41st Cong. 2d Sess., Senate, No. 58, p. 3.

sion of the Thirty-Seventh Congress, with the accumulation thereon, *certainly does belong in equity to the Chinese Government*, as the Presidents therein declare, and *should be returned to it.*"

The Committee then proceed to say, that, if such surplus shall be declined by China, it should be expended, according to the recommendation of Mr. Burlingame, in founding a literary institution for the equal benefit of Chinese and Americans.

Chicago responded to New York. At a meeting of citizens March 31st, another committee was organized, with R. B. Mason, the Mayor, as chairman, — and among the members were William Bross, Lieutenant-Governor of Illinois, Thomas Drummond, Judge of the United States Circuit Court, James E. McLean, Collector of Customs, N. S. Davis, Professor of Surgery in the Medical College, Samuel M. Wiseman, President of the First National Bank, J. C. Burroughs, President of the University of Chicago, and E. D. Haven, President of the Northwestern University, with others, — and adopted resolutions, where, after approving those of New York, they declare, —

"That it seems to us eminently fitting and fortunate that this money, *which distinguished representatives of the United States have asserted belongs in equity to the Chinese Government*, though that government is disposed to waive its right to it, should be employed in some way to the common advantage and honor of both nations."

The committee then proceed to resolve further, —

"That in view of the impression conveyed by Secretary Seward's Report to the Third Session of the Fortieth Congress, that the Chinese authorities are unwilling to receive

this money, this Committee respectfully memorializes Congress to cover it into the United States Treasury as *a special fund, to be returned to the Chinese Treasury*, or hereafter appropriated to the establishment of the proposed institution of learning at Peking, *as the Chinese Government may elect.*"

These two weighty committees concur in recognizing the equity of China, if not her proprietorship, in this fund. If it be true that the surplus belongs to China, or that it is hers in equity, it will be difficult to defend any proposition to return the amount indirectly, as in a college or buildings for the accommodation of the United States on Chinese soil. If returned at all, it must be directly, and in the form of money. What right have we to determine how to expend in China or for China that which is hers? To do so would not be generous, even if it were just. It would be ostentatious, and might be offensive. It would assume that we can employ the money of China, even in China, for her own benefit, better than she can herself. At all events, it would recognize an undefined title in China, to which we deferred.

THE CHINESE HAVE NOT REFUSED TO RECEIVE IT.

BUT it cannot be disguised, that, when the two Secretaries of State concurred in the idea of appropriating this fund to the erection of buildings, also when Mr. Burlingame made his earnest effort for its appropriation to a college at Peking, and when two successive Presidents invited Congress to consider what should be done with it, there was an impression not only that the Chinese would not allow the surplus to be returned, but that they had peremptorily declined to entertain the

proposition. Such was the impression when the attention of the Committee was first called to this fund, now many years ago. And it cannot be doubted that this impression has exercised an influence in preventing frank and explicit action on the question, according to the obvious requirement of justice.

The Committee have endeavored to ascertain the ground for the statement that the Chinese had refused to receive the surplus. It seems, on inquiry, to be a report or rumor started nobody knows precisely how or when. Thus we find Mr. Seward saying, in his Report of February 18, 1868:—

"It appears, that, when it was ascertained that this surplus would remain, the return of it to the Chinese Government was proposed, but that they declined to accept it."[1]

And Mr. Fish, in a similar Report, under date of March 10, 1870, says likewise:—

"The Secretary of State is informed, that, after the awards were completed, and it was definitely known that there would be a surplus, Mr. Burlingame informally proposed to return whatever should be left. The Chinese, however, did not seem disposed to accept it."[2]

But these distinguished Secretaries do not adduce any authority for their assertion; nor does careful search at the State Department disclose any dispatch or record sustaining or justifying it. On this point the Committee are confident. No instruction was ever given to any Minister authorizing him to tender a return of the surplus, or even to sound the Chinese Government on the question of receiving it, if tendered. In fact, no

[1] Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29, p. 3.
[2] Executive Documents, 41st Cong. 2d Sess., Senate, No. 58, p. 3.

power exists in the State Department to authorize such a tender. Such an act could proceed only from Congress, which has never acted on the subject.

The Committee, therefore, dismiss the assumption that there has been any tender to the Chinese, or any refusal on their part, whether formal or informal, and they approach the question simply on its merits.

DUTY TO CHINA.

HAD this question arisen in our relations with a European power, it would be only according to an important precedent, if we forbore to open the transaction. By two separate conventions, one in 1815 and the other in 1818, France paid to England a large sum, amounting to one hundred and thirty million francs, on account of English claimants, and the English Government undertook to dispose of all their claims, as the United States undertook to dispose of all the claims of American citizens in China. In 1852 Lord Lyndhurst brought the subject before the House of Lords, when he stated that there was "an unapplied balance of upwards of £200,000";[1] and in 1861 Mr. Denman did the same in the House of Commons, when he said, that, "after all claims had been satisfied, there still remained a sum of £200,000 not in any way to be considered due under the convention."[2] Nothing was said of returning this surplus to France. The Baron de Bode, a renowned litigant, made an ineffectual attempt to obtain something out of it on account of losses in France, although his case was ar-

[1] Speech, June 11, 1852: Hansard's Parliamentary Debates, 3d Ser., Vol. CXXII. col. 494.

[2] Speech, June 4, 1861: Ibid., Vol. CLXIII. col. 579.

gued with consummate ability in the English courts, and awakened the eloquence of Lord Lyndhurst in the House of Lords. In an appeal for justice, the Baron declares that out of the amount received by England, only 67,071,301 francs had been paid to claimants, and he insists that the Crown should account to the claimants, *or to France*, for the unexpended surplus, — thus recognizing an eventual proprietorship in France, after the satisfaction of the claims.[1] What has been done with this surplus since is not known.

But while the importance of doing equity always is a paramount duty, the Committee feel that there is something in the negotiation under which this surplus accrued which should make us particularly careful lest we fail to do equity. It will be observed that the sum received from China was on account of certain claims of our citizens, and that it was in no sense a national indemnity; in other words, the consideration was specific, and not general in character. The preamble of the convention recites that it was entered into "for the satisfaction of claims of American citizens," — thus expressly excluding any other consideration. With regard to these claims the Chinese had little or no information, while our Minister saw clearly, that, with the disallowance of those doubtful, which he regarded as probable, there would be a surplus. His words were: "If they be recognized, the fund will be exhausted. If they be disallowed, there will be a surplus at the disposition of the Government."[2] The actual surplus was about thirty-

[1] Mémoire à consulter et Consultation concernant l'Indemnité due au Baron de Bode, Londres, 1845. De Bode *vs.* The Queen, 3 House of Lords Cases, 449. Reports from Select Committees of House of Lords in 1852 and House of Commons in 1861 on Petitions of the Baron de Bode: Parliamentary Papers, 1860, Vol. XXII. No. 482, and 1861, Vol. XI. No. 502.

[2] Mr. Reed to Mr. Cass, November 10, 1852: See, *ante*, p. 449.

three and a third per cent. of the amount stipulated, and about fifty per cent. of the amount awarded to claimants. The considerableness of this sum is another reason why we should hesitate to take advantage of a transaction where we were so situated as to be the best informed on the matter in issue. If we did not know everything bearing on it, we knew much more than the Chinese.

In fact, the Chinese acted in the dark; and here we have the testimony of Mr. Williams, the interpreter of our Minister in the negotiation, and still an honored servant of the Government, who has said in a dispatch: "No list was presented to the Chinese by Mr. Reed"; and again, "The United States Government was made the sole judge of the justice of the claims"; and then again, "In reality, they [the Chinese] paid the demands made upon them by the English and French Ministers, as well as the American, *under pressure*."[1] If this were so, — and one of our own officers is the witness, — the equity of the Chinese becomes more apparent. Obviously, they were unable to examine the claims, and did not pretend to examine them. Everything was left to the United States. And this was done while the ancient empire was torn by civil war, aggravated by the menacing attitudes of England and France. It is not too much to say that it was done "under pressure." According to well-known authorities, a deed made under *duress* may be set aside; and this rule of jurisprudence shows a just sensitiveness with regard to that absolute freedom which is essential to the life of a contract. Such a rule, if applied in the intercourse of nations, would invalidate most of those conventions after

[1] Mr. Williams to Mr. Burlingame, October 1, 1863: Diplomatic Correspondence, 1865-6, Part 2, pp. 411-12: Executive Documents, 39th Cong. 1st Sess., H. of R., No. 1.

war or menace by which one power has assumed obligations to another, and, indeed, would strike at war and menace as modes of pursuing a claim. In the present case the validity of the convention is not called in question; but, since we assert no right of conquest, it is properly suggested that the original pressure upon China, attested by one of our own functionaries, peculiarly intimate with the transaction, is an additional reason why we should decline to take advantage of the convention beyond the just satisfaction of our citizens.

And this brings the Committee to the conclusion, that, in equity, this fund does not belong to us. Whatever may be our technical title, in conscience the money is not ours.

In returning to China the fund in question and its accretions, the United States will relieve themselves of an embarrassing trust, while they render unto the distant Cæsar what is his own, and set an example by which republican institutions will be elevated. The question of its application, which has occupied the attention of successive Presidents, which has been presented to successive Congresses, and is still undecided, will be at rest. Schemes for the bestowal of the fund in such a way as to harmonize our sense of justice with our obligations to China, if not with Chinese proprietorship, will cease. There will be nothing for "disappointed claimants" to pursue. China will receive her own, — if with astonishment, it will be only because nations have so rarely lived according to the Golden Rule. Such an act cannot be otherwise than honorable to the United States. It will be a victory in a new field, making us first in a new order of conquerors. China, with infinite resources, will be more than ever open to

American enterprise. Thus, while doing right, shall we benefit ourselves. So is justice to others the way to national advantage. But whatever this advantage, it must not be forgotten that the first inducement is the essential equity of the case.

The measure now proposed will be valuable in proportion as it is spontaneous. Thus far China has made no demand, or suggestion even. A year hence the venerable Empire may appear before the youthful Republic with a formal claim. The very fact that we deliberate about this fund will spread the tidings of its existence. Better anticipate a demand than wait and at last yield an ungracious compliance, urged by a foreign plenipotentiary in the service of the ancient government whose money is now in our hands.

The Report was accompanied by the following Joint Resolution, which was read and passed to a second reading: —

JOINT RESOLUTION, DIRECTING THE RETURN OF CERTAIN MONEYS TO THE GOVERNMENT OF CHINA.

WHEREAS on the 8th day of November, 1858, a convention was entered into between the United States and China for the settlement of claims against the latter by citizens of the United States, and in pursuance thereof an amount of five hundred thousand taels, making seven hundred thousand dollars in gold, or thereabouts, was paid by China, out of which sum, after the satisfaction of all claims exhibited by citizens of the United States, there remains in the hands of the United States an unappropriated surplus, amounting, with interest and exchange, to four hundred thousand dollars in currency, or thereabouts, which sum is now in custody of the Department of State: Now, therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the

unappropriated surplus now in the hands of the United States, under the convention with China, of November 8, 1858, be refunded to the Government of China; and it shall be the duty of the President of the United States to see that this is carried into effect.

APPENDIX.

(A). Page 451.

LETTER OF MR. SEWARD TO MR. SUMNER.

DEPARTMENT OF STATE, WASHINGTON, June 21, 1862.

SIR, — I duly received your letter of the 3d instant, accompanied by a copy of the resolution of the Senate of the 2d instant, referring to the consideration of the Committee on Foreign Relations of that part of the President's Annual Message to Congress, of December last, which adverts to the difference between the amount stipulated to be paid by China in satisfaction of claims of United States citizens and the gross amount of the awards of the Commissioners appointed pursuant to the Act of Congress of the 3d of March, 1859.

In compliance with your request for information and suggestion upon the subject, I have the honor to communicate a copy of the Convention, a copy of the Act to carry it into effect, a copy of all the correspondence on record or on file in the Department touching the matter, and all the original papers relating to the proceedings of the Commissioners. It is desirable that great care should be taken of these last, and that they should be returned to the Department as soon as the subject shall have been disposed of.

The circumstance of the complaints against the Chinese, which it was the purpose of the convention to adjust, having

arisen in a peculiar region and among a singular people, probably suggested the appointment of Commissioners resident on the spot, who were familiar with the scene of their duties. It is understood, therefore, that, upon the recommendation of Mr. Reed, the Minister who concluded the convention, Mr. Charles W. Bradley, who was United States Consul at Ningpo, and Mr. Oliver E. Roberts, who had acted in a similar capacity elsewhere in China, and both of whom had long resided in that country, were appointed Commissioners. The business-like manner in which they discharged their trust is manifest from the records of the Commission.

With regard to the disposition of the surplus in question, three methods suggest themselves.

1. The refunding of the whole amount to the Chinese.

2. Appropriating the whole or a part of it in payment of claims supposed to have been unjustly rejected by the Commissioners, and of others in which the amounts allowed may not have been satisfactory to the claimants.

3. Retaining the whole surplus in the Treasury of the United States, or causing it to be invested toward indemnifying citizens who may hereafter be injured by the Chinese authorities.

I will abstain from any remarks on the first head.

There is but one claim, that of Messrs. Nott & Co., disallowed by the Commissioners, — in which case application has been made for a part of the surplus referred to. The claimants allege that their agents in China were too far from Macao, the place where the Commissioners met, to allow them to appeal to the Minister in season. The Committee will be enabled to judge of the sufficiency of this reason for considering the claim in that case an open one.

The award in the Caldera case is the only one complained of as having been inadequate. As all the facts and arguments in the case are embraced in the accompanying papers, the Committee can form their own opinion upon this point.

The Minister who concluded the convention pursued a judicious course in requiring from the Chinese a sum in gross adequate to meet the sums claimed in the several cases. This, however, can hardly be allowed to imply, that, even in his opinion, the claimants in those cases ought to receive the amounts which severally they might expect.

Congress made it the duty of the Commissioners, by an investigation judicial in its character, to ascertain the amounts justly due; and if the claimants should be dissatisfied with the decisions of the Commissioners, an appeal to the Minister was allowed, whose decision was expected to be final.

The expediency of sanctioning a review of decisions of the Commissioners or arbiter may be deemed questionable. They were all of high character, peculiarly qualified for the trust conferred upon them. It is for Congress to consider the conveniences and inconveniences of such a precedent, when the Government, in all its branches, may be considered to have already fulfilled its duty to the claimants, collectively and individually.

The whole subject is one of a purely legislative character, affecting a fund which, although it came into the Treasury in a peculiar manner, seems to me to belong to the United States. This Department has no authority to inquire whether there are equities existing on the part of any of our citizens which Congress ought to consult in directing the disposition of the fund. If Congress should impose any inquiry of that nature upon the Department, it would undertake the performance of it cheerfully and with a purpose only to consult justice and the public advantage. But the Department sees no ground for recommending such a measure in the present case.

I have the honor to be, Sir, your very obedient servant,

WILLIAM H. SEWARD.

Hon. CHARLES SUMNER,
Chairman of the Committee on Foreign Relations,
United States Senate.

(B). Page 454.

CLAIMS SINCE THE AWARD.

It remains to speak of claims which have been brought forward or renewed since the awards were made.

One of these is that of Matthew Rooney, master of the bark Caldera, which had been presented to the Commissioners, but was not considered by them, in the absence of proof of citizenship. In 1864 his representatives produced to Mr. Burlingame evidence on this head, and the latter directed that he should be paid in the same manner and proportion as other persons interested in the same class of claims had been paid by order of Mr. Ward, our Minister at Peking.[1]

Mr. Burlingame says, in his dispatch reporting the action which he had taken in this matter: "There is no other demand that can ever come up for payment out of this Indemnity Fund, which has not been examined and decided."[2]

Other claims have, however, been brought to notice. Some of these are known as the Caldera claims; another is the Neva or Nott & Co.'s claim.

The Caldera was a Chilian bark. On the 5th October, 1854, she sailed from Hong-Kong for San Francisco. During the ensuing night she encountered a storm, by which she was so injured as to be obliged to seek an anchorage. This she found, on the 7th October, between islands lying off the Chinese coast. Here she was attacked and plundered by successive piratical bands. The captain escaped and made his way to Hong-Kong, when, upon his information, steps were

[1] Mr. Burlingame to Mr. Richardson, September 3, 1864, — Claims against China, p. 211: Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29.

[2] Mr. Burlingame to Mr. Seward, May, 1865, — Diplomatic Correspondence, 1865-6, Part 2, p. 442: Executive Documents, 39th Cong. 1st Sess., H. of R., No. 1.

taken to recover the property and punish the pirates. A small portion of the cargo was found, and summary justice was inflicted upon such of the pirates as were captured.

The master of the Caldera was an American. An American firm were shippers by her, and various American insurance offices had taken risks upon the hull of the vessel and the larger portion of her cargo. These all appealed to Mr. McLane, then the chief diplomatic officer of the United States in China, with a view to secure indemnity. Mr. McLane declined to take action, declaring that our treaty offered "no basis whatever on which to make a claim against the Chinese Government,"[1] and referred the subject to Mr. Marcy, then Secretary of State. The latter responded, under date of October 5, 1855, "that the parties injured were entitled to indemnification from the Government of China, if not specially by treaty, at least by general principles of international right and obligation."[2] The same matter forms the subject of a dispatch from Mr. Cass, Secretary of State, to Mr. Ward, dated May 5, 1859, in which, after declaring that "the decision of the case will rest with the Commissioners and yourself," and detailing certain allegations made to him by the claimants, who appear to have been very active, he says: "If facts of such a nature be proved, the responsibility of the Chinese Government and its duty to make indemnity would seem to be fixed, according to the treaty, as well as according to the Law of Nations."[3]

The matter was brought before the Commissioners in 1859, and a patient hearing seems to have been given by them, the result of which was a disagreement between them. Both rendered elaborate opinions: one adjudging that no portion of the claims should be allowed; the other, an opposite view, and he proceeded to assess the damages sustained by

[1] Claims against China, p. 173: Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29.

[2] Ibid., p. 10.

[3] Ibid., pp. 9, 10.

the claimants. These he estimated at forty per cent. of their claim, holding that the vessel and her cargo had been injured by the storm to the extent of sixty per cent. of their value. The case then went before Mr. Ward, whose conclusion was expressed in the following words: —

"Under the instructions of Mr. Marcy, thus reaffirmed by Mr. Cass, my duty may be discharged by ascertaining, as far as possible, what have been 'the actual losses of our citizens.' Satisfied with the award of Mr. Roberts on this point, I have approved the same, and ordered the amounts awarded by him to be paid to the respective claimants."[1]

The amounts so paid exceeded $54,000 in coin. This was received by the several claimants, and it does not appear that they protested against the awards. Some of them were, however, dissatisfied, and in 1863 addressed Mr. Burlingame, setting forth their views, and asking him to favor their purpose for a rehearing. Mr. Burlingame, as will be seen on reference to his dispatch of October 5, 1863,[2] entered on a thorough examination of their statements, and arrived at the conclusion that the awards ought not to be disturbed, using strong language in this sense.

The Neva was a British schooner. Messrs. Nott & Co. were American merchants, residing at Hong-Kong. On the 16th October, 1857, they shipped by the Neva, then bound for the port of Foo-chow, five packages containing twenty thousand Mexican dollars. The vessel sailed at 3 o'clock P.M. of the 17th, and the same evening, while at anchor a short distance beyond the limits of the port of Hong-Kong, five Chinese came alongside and requested passage to Foo-

[1] Claims against China, p. 13; see also pp. 172-182: Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29.

[2] Mr. Burlingame to Mr. Seward, — Diplomatic Correspondence, 1865-6, Part 2, p. 406: Executive Documents, 39th Cong. 1st Sess., H. of R., No. 1.

chow, which was granted. At 11 o'clock that night these Chinese and the Chinese members of the crew took possession of the vessel; and having murdered the master and some of the crew and secured the rest, they broke into the hold, seized four of the packages of silver and removed them to the shore. The efforts of Messrs. Nott & Co. to recover the treasure were unsuccessful; and finally, the firm having ceased to exist, the agent representing their interests placed the claim before the Commissioners, who rejected it. Correspondence with the State Department ensued, and in 1869 the representatives of the firm appeared before Congress, declaring that their agent was absent from the South of China, where the Commissioners held their sittings, at the time when the awards were made, and that they had then, innocently, been deprived of their right to appeal from them to the Minister. The Attorney-General was directed by Congress to examine their claim, and, if in his judgment it was valid, he was empowered to award its payment out of the Indemnity Fund. The Attorney-General decided in favor of the claimants, and directed payment of a certain sum in gold. Mr. Washburne, then Secretary of State, held that he was not authorized to make the payment in any other than current funds of the United States. From this ruling the claimants have lately appealed to the Court of Claims, which has decided that the award of the Attorney-General should be complied with. This will make a small deduction from the fund.

TAX ON BOOKS.

REMARKS IN THE SENATE, JUNE 30, 1870.

A BILL "to reduce internal taxes and for other purposes" being under consideration, Mr. Sumner moved to add to the free list of imports "books in foreign or dead languages, of which no editions are printed in the United States." In conclusion of a running debate relative to the application of this amendment, Mr. Sumner said: —

SENATORS seem to argue that this is applicable exclusively, or almost exclusively, to school-books; but we are all aware that outside of school-books there are works of literature, of instruction generally, of travels, of romance if you please, interesting in families, and which thousands who are familiar, for instance, with the German language, would be glad to have. For example, here is the large German population of our country, — is it not right that they should have the means of adding to those innocent recreations that are found in reading? We shall be doing a real service to them, if we enable them to import books that they lack, cheap, — not merely school-books, but I mean the large class of books outside of school-books. I see no possible objection to this provision, while I see much in its favor.

I have alluded to the large German population. There is also a very considerable Italian population. Some one told me the other day, who professed to know, that there are three hundred thousand Italians in our country. That seemed to me very large; but it was an estimate made by an Italian. Now should not those Italians be

enabled under our tariff law to import books from their own country, of literature or of science, without paying a tax? It seems to me that we owe that gratification to them, when they come here to join their fortunes to ours. And so you may go through the whole list of European nations. Take Spaniards; take Swedes; take Danes: I know not why their books should be taxed, when they come to them from across the sea. It seems to me that the tax is inhospitable; it is churlish; and of course it is a tax on knowledge.

The amendment was rejected.

Mr. Sumner then moved to add, — "Also books with illustrations relating to the sciences and the arts,"— saying: —

ON that I wish to read a remark of an intelligent person not belonging to the class that the Senator from Ohio characterized as rich men who import books, but one who imports books because he needs them. Remarking on the works of science and the arts, including books on architecture and the fine arts, which now pay very heavily at the custom-house, he says: —

"Books of this kind are too costly, and the sale of them is too limited, for them to be reprinted. To add to their cost by a heavy duty is an outrage, for it is depriving men of small means of the tools whereby they live. It is a queer kind of protection of home industry which seeks to keep out of the country by taxation the knowledge which makes industry valuable."

Now I put it to Senators whether any injurious consequence can result from allowing these books to come in free. The duty that you receive from them is small; it is very little for you to give up; but in giving facilities to the importation of such books you contribute to

knowledge. I am sure of it. I have no motive in making this motion, or this succession of motions, except my anxiety for the extension of knowledge in this Republic. I am for free schools; I am for free knowledge everywhere; and I wish to beat down all the obstructions possible, and one of these is the tax which we impose in our tariff. I hope there can be no question on that amendment.

The vote being taken by yeas and nays resulted, Yeas 14, Nays 26; so this amendment was likewise rejected.

NATURALIZATION LAWS: NO DISCRIMINATION ON ACCOUNT OF COLOR.

REMARKS IN THE SENATE, JULY 2 AND 4, 1870.

JULY 2, 1870, the Senate having under consideration a bill "to amend the Naturalization Laws and to punish crimes against the same," which had been reported from the Committee on the Judiciary as a substitute for one from the House, — the particular object of both bills being the prevention of the election frauds perpetrated through the instrumentality of unnaturalized or illegally naturalized aliens, — Mr. Sumner moved to add, as a new section, a bill previously introduced by himself, and reported favorably from the same Committee, providing —

"That all Acts of Congress relating to naturalization be, and the same are hereby, amended by striking out the word 'white' wherever it occurs, so that in naturalization there shall be no distinction of race or color."

The motion was strenuously resisted, as ill-timed and out of place, — Mr. Edmunds, of the Judiciary Committee, remarking, that, although he reported the bill in question, and believed in it so far as he now understood, yet, under existing circumstances, he should vote against it as an amendment to the pending bill.

Mr. Sumner briefly responded: —

MR. PRESIDENT, — The remark of the Senator from Vermont [Mr. EDMUNDS] renders it necessary for me to make a brief statement. Some time during the last Congress I had the honor of introducing a bill to strike the word "white" from our Naturalization Laws. I tried to have it put on its passage. I was resisted then by the Senator from Vermont, who moved its reference to the Committee on the Judiciary. There it remained until near the expiration of that Con-

gress, and was then reported adversely, too late for further action. During the third week of the present Congress, now more than a year ago, I introduced the same bill again. It remained in the room of the Judiciary Committee from March, 1869, until very recently, when it was reported favorably.

Such, Sir, have been my efforts to bring the Senate to a vote on this question. Never till this moment has it been in my power to have a vote on a question which I deem of vital importance. I have here on my table letters from different States, — from California, from Florida, from Virginia, — all showing a considerable number of colored persons — shall I say of African blood? — aliens under our laws, who cannot be naturalized on account of that word "white."

Now, Sir, here is a practical grievance which needs a remedy. This is the first time that I have been able to obtain a vote upon it; and I should be unworthy of my seat here, if, because Senators rise and say they will vote it down on the ground that it is out of place, I should hesitate to persevere. Senators will vote as they please; I shall vote for it. The Senator from Illinois [Mr. TRUMBULL] properly says it is in place. Never was there a bill to which it was more germane. You are now revising the naturalization system, and I propose to strike out from that system a requirement disgraceful to this country and to this age. I propose to bring our system into harmony with the Declaration of Independence and the Constitution of the United States. The word "white" cannot be found in either of these two great title-deeds of this Republic. How can you place it in your statutes?

The motion was lost, — Yeas 22, Nays 23.

Subsequently, on the same day, the pending bill was itself defeated, the original bill being preferred, — and the latter now coming up, Mr. Sumner renewed his amendment, remarking, —

Now I have to say that that is worth all the rest of the bill put together. That is a section that is pure gold. It will do more for the character and honor and good name of this Republic than all the rest of the bill. I am for the rest of the bill, but this is better than all the rest. Now I ask for the yeas and nays.

After further debate the amendment prevailed, — Yeas 27, Nays 22; whereupon Mr. Williams, of Oregon, moved the following addition: —

"*Provided*, That nothing in this Act shall be construed to authorize the naturalization of persons born in the Chinese Empire."

July 4th, the debate on the House bill being resumed, Mr. Conkling, of New York, criticized sharply the course of Mr. Sumner in pressing his amendment, to the peril of the bill, — denominating it "an act of self-will in defeating the purpose of a great majority of this body to consummate a simple, practical, and urgent measure." Mr. Sumner replied as follows: —

MR. PRESIDENT, — The Senator from New York has chosen to make an assault on me to-day, because, in the discharge of my duties, I do not see my duty as he sees his duty, — because on this Fourth day of July I choose to stand by the Declaration of our fathers. For that I am impeached by the Senator from New York.

He presses me to postpone this proposition until to-morrow. When, Sir, will that to-morrow come? Can the Senator tell? Is he adept enough to indicate the day, or even the week, when a vote can be had on it? The Senator knows, he must know, that, if not voted on now, it will fail during the present session. The Senator shakes his head; but he knows too much of the business now before the Senate not to see that I am

right. What chance is there of getting before the Senate the original bill containing this proposition? Why, Sir, the bill was introduced first on the 19th of July, 1867, now three years ago. I tried then to put it on its passage, deeming it so simple that there was no need of a reference to any committee. The Senator from Vermont [Mr. EDMUNDS] prevailed against me by insisting that it should be referred to the Committee on the Judiciary. It was referred, and there it slumbered until that Congress was about to close, thus sleeping the long sleep.

On the 22d of March, 1869, which was in the next Congress, I introduced the same bill again, — I have it before me, — and again it slumbered in the hands of the Judiciary Committee until a few weeks ago, when at last it was reported to the Senate. Then it took its place on the Calendar, with the numerous other bills there, important and unimportant, some very important, all in competition with it.

What chance have I had for a vote upon it? From the 19th of July, 1867, down to this hour, Saturday was the first day I was able to have a vote upon it; and now to-day Senators insist that I shall withdraw it, and postpone the whole question to some "to-morrow," some indefinite, unknown to-morrow.

> "To-morrow, and to-morrow, and to-morrow
> Creeps in this petty pace from day to day,
> To the last syllable of recorded time;
> And all our yesterdays have lighted fools
> The way to dusty death."

Sir, I am not one of those "fools." I will not postpone this question to any "to-morrow." The Senate will do as they please; but, God willing, they shall

have an opportunity to vote on it. Vote as you please, Sir, but the time has come for a vote.

Mr. President, this is not the only bill on the Calendar which concerns the rights of colored persons. There are two on the Calendar, and one now before the Judiciary Committee. The first on the Calendar was reported by me from the Committee on the District of Columbia as long ago as February 8, 1870, and is entitled "A bill to repeal the charter of the Medical Society of the District of Columbia." That society has been guilty of an act which I have no hesitation, on all the testimony before us, in declaring to be one of infamy, for which they deserve the promptest judgment of Congress, which shall take from them the power to inflict indignity on their fellow-man. Enjoying a charter from Congress which dedicates them and sets them apart to the cultivation of medical science, they have undertaken to exclude persons otherwise competent simply on account of color. They have set up a test of membership founded on color. The evidence is irrefutable; and yet I have been unable to bring the Senate to a vote on that bill; and meanwhile colored physicians in this District are subjected to the indignity of exclusion from the Society, and thus are shut out from opportunities of medical instruction.

There is another bill, which I reported from the Committee on the District of Columbia May 6, 1870, entitled "A bill to secure equal rights in the public schools of Washington and Georgetown." That, also, I have tried in vain to press upon the Senate. There is, then, another bill, which I had the honor of introducing May 13, 1870, entitled "A bill supplementary to an Act entitled 'An Act to protect all citizens of the United

States in their civil rights, and to furnish the means for their vindication,' passed April 9, 1866." This important bill was duly referred to the Committee on the Judiciary, but I have heard nothing from it since. It slumbers on the table of the Committee.

Of all these measures which concern equal rights, the only one which I have been able to bring before the Senate is that under consideration; and I am now pressed to withdraw it so as to avoid a vote. Why, Sir, again and again in other years have I been pressed in the same way; again and again in other years have Senators spoken to me and of me as the Senator from New York was advised to speak to-day: but it has not been my habit to yield; nor have I been alone, Sir, in such determination. One of the most beautiful instances in parliamentary history, familiar, doubtless, to the Chamber, is that motion of Mr. Buxton in the House of Commons, in 1832, which determined Emancipation. The Ministry professed to be against Slavery; a large number of the House of Commons made the same profession; but they were against declaring it; and when Mr. Buxton gave notice of a motion in favor of immediate emancipation, Ministry, members of the House, and personal friends came to him entreating that he would not press his motion, especially that he would not divide the House. One of his family records in his Memoirs, which I have in my hands, says:—

"He was cruelly beset, and acutely alive to the pain of refusing them, and, as they said, of embarrassing all their measures, and giving their enemies a handle at this tottering moment."[1]

[1] Memoirs of Sir Thomas Fowell Buxton, edited by his Son, (5th edit., London, 1852,) p. 243.

Then it is recorded of his friends in the House: —

"'They hated,' they said, 'dividing against him when their hearts were all for him; it was merely a nominal difference; why should he split hairs? He was sure to be beaten; where was the use of bringing them all into difficulty, and making them vote against him?' He told us that he thought he had a hundred applications of this kind in the course of the evening; in short, nearly every friend he had in the House came to him, and by all considerations of reason and friendship besought him to give way."[1]

On that occasion he wrote to the leader of the House of Commons, Lord Althorp, under date of May 22, 1832, as follows: —

"Allow me, moreover, to remind you, that, however insignificant in myself, I am the representative, on this question, of no mean body in this country, who would be, to an extent of which I believe you have no idea, disappointed and chagrined at the suspension of the question."[2]

Sir, in a humble way I may adopt this language. I, too, am the representative, on this question, of no mean body in this country, who I know would be disappointed and chagrined at the suspension of the question. The English Emancipationist refused to yield; he insisted, according to the language of Parliament, on dividing the House. He was left in a minority, but that vote determined Emancipation; and the Ministry and those personal friends who had advised against his course complimented him upon that firmness which had at last assured the victory.

I doubt if Senators are aware of the practical bearing of this proposition on the Atlantic seaboard, and even

[1] Memoirs, (5th edit.,) p. 245. [2] Ibid., p. 243.

in California. I said on Saturday that I had letters from various parts of the country attesting that there are colored aliens shut out from equal rights by that word "white" in our Naturalization Laws. I did not then read the letters; but as this debate now promises to extend, I deem it my duty to lay some of them before the Senate.

Mr. Sumner here read four letters, — two from Florida, one from California, and another from Virginia.[1]

Such, Sir, is the personal testimony with regard to the importance, I would say the necessity, of this measure. Here are Africans in our country shut out from rights which justly belong to them, simply because Congress continues the word "white" in the Naturalization Laws. These men are humble, but they are none the less worthy of protection. Ay, Sir, it is your duty to protect them. Even if few, you cannot afford to let them suffer wrong; but they are numerous,— in Florida counted by the hundred, and even the thousand.

Strong as this measure is, as an act of justice, whether to many or few, it has another title. Its highest importance is found in its conformity to the requirement of the Declaration of Independence. Sir, this is the Fourth of July, when our fathers together solemnly declared as follows: —

"We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

[1] See Congressional Globe, 41st Cong. 2d Sess., Part VI. p. 5155.

The great, the mighty words of this clause are, that these self-evident, unalienable rights belong to "all men." It is "all men," and not a race or color, that are placed under protection of the Declaration; and such was the voice of our fathers on the fourth day of July, 1776. Sir, such was the baptismal vow of this nation. According to this vow, *all men* are created equal and endowed with unalienable rights. But the statutes of the land assert the contrary, — they declaring that only all *white* men are created equal.

Now, Sir, what better thing can you do on this anniversary than to expunge from the statutes that unworthy limitation which dishonors and defiles the original Declaration? It is in your power to make the day more than ever sacred.

How can you hesitate? There are the words. Does any one question the text? Will any one move to amend the text? Will any one insist that hereafter, as these great words are read on our great anniversary, the word "white" shall be inserted to qualify this sublime Declaration? No one will venture such a suggestion. There they are; there they will remain as long as this Republic endures. But if you are not ready to change the original text, you must then change your statutes and bring them into harmony with the text. The word "white," wherever it occurs as a limitation of rights, must disappear. Only in this way can you be consistent with the Declaration.

Senators undertake to disturb us in this judgment by reminding us of the possibility of large numbers swarming from China; but the answer to all this is very obvious and very simple. If the Chinese come here, they will come for citizenship or merely for labor.

If they come for citizenship, then in this desire do they give a pledge of loyalty to our institutions; and where is the peril in such vows? They are peaceful and industrious; how can their citizenship be the occasion of solicitude?

We are told that they are Imperialists; but before they can be citizens they must renounce Imperialism. We are told that they are foreigners in heart; but before they can take part with us they must renounce their foreign character. Therefore do I say, if they come for citizenship, there is no peril, — while, if they come merely for labor, then is all this discussion and all this anxiety supefluous.

Why introduce the topic into debate? Is there a Senator on this floor who will say that from anything done or said by Chinese at this moment there is any reason to fear peril to this Republic? Sir, the greatest peril to this Republic is from disloyalty to its great ideas. Only in this way can peril come. Let us surrender ourselves freely and fearlessly to the principles originally declared. Such is the way of safety. How grand, how beautiful, how sublime is that road to travel! How mean, how dark, how muddy is that other road which has found counsellors to-day! Listening to the speech of the Senator from Nevada [Mr. STEWART], more than once, nay, thrice over, denying the Declaration of Independence, I was reminded of an incident in the Gospels. I have the book from the desk of the Secretary, and now read the pertinent passage: it is in Matthew, chapter twenty-six: —

"Now Peter sat without in the palace: and a damsel came unto him, saying, Thou also wast with Jesus of Galilee.

"But he denied before them all, saying, I know not what thou sayest.

"And when he was gone out into the porch another maid saw him, and said unto them that were there, This fellow was also with Jesus of Nazareth.

"And again he denied with an oath, I do not know the man.

"And after a while came unto him they that stood by, and said to Peter, Surely thou also art one of them; for thy speech bewrayeth thee.

"Then began he to curse and to swear, saying, I know not the man. And immediately the cock crew.

"And Peter remembered the words of Jesus, which said unto him, Before the cock crow thou shalt deny me thrice. And he went out, and wept bitterly."

Sir, thrice has a Senator on this floor denied these great principles of the Declaration of Independence. The time may come when he will weep bitterly.

On a subsequent motion by Mr. Conkling for the reconsideration of the vote on Mr. Sumner's amendment, in consequence of the debate ensuing upon Mr. Williams's proviso, Mr. Sumner said: —

THE Senator from Oregon [Mr. WILLIAMS], who spoke with earnestness and with argumentative force this morning, before the motion to reconsider was made, has given us reasons why we should not admit the Chinese into the promised fellowship of the Declaration of Independence. I took down some of his precious words, — not many.

He says that my proposition gives to millions of heathens and pagans power to control our institutions. How and when have I made any such proposition? I wish the Senator were here, that I might ask him to ex-

plain this unjustifiable exaggeration. How and when? I make no proposition that I do not find in the institutions of my country. I simply ask you to stand by the Declaration of your fathers. I say nothing about millions of heathens and pagans. I do not ask to give them power or control. Full well do I know that there are no millions of heathens or pagans, and no other millions on this earth, that can control the institutions of this Republic. I know that we stand too firm to suffer from any such contact. Fearlessly we may go forward and welcome all comers, for there can be no harm here; the heathens and pagans do not exist whose coming can disturb our Republic. Worse than any heathen or pagan abroad are those in our midst who are false to our institutions. Millions of heathens and pagans! Whence are they to come? From China? But if they come for citizenship, then, as I said this morning, do they give the pledge of loyalty to the Republic; and how can you fear them, if they enter your courts and with oaths and witnesses ask to be incorporated with our citizenship?

MR. STEWART. Allow me to ask the Senator if he knows any way in which they can give a pledge that they would understand as binding on them?

MR. SUMNER. Precisely as an Englishman, a Scotchman, an Irishman, a Frenchman, a German, a Swede, a Dane, a Russian, or an African may give a pledge; precisely as the Senator may give a pledge. I have seen the Senator go up to that table and take the oath. The Senator is able. He knows that I know that: but does the Senator suppose that he surpasses in ability many

of the Chinese who might come here? Does the Senator suppose that he feels more keenly the oath which he took at that desk than a Chinese might feel it? I am not speaking of those who may come over here in enforced labor: I join with the Senator in effort to stop that. But I am speaking of the intelligent Chinese, so well and satisfactorily described by the Senator from Missouri [Mr. SCHURZ] this morning, who come voluntarily to join their fortunes with ours. Suppose they come, where is the peril? Sir, it is against common sense to imagine peril from such a source.

The Senator from Missouri has shown you how slowly they must come, according to the natural order of things, — how many decades of years it must take before there will be a million of them, while meantime our population is swelling by unknown millions, so that when we have a solitary million of Chinese we shall have one hundred millions of intelligent Americans treading this continent. And yet the Senator from Nevada is afraid. "What! a soldier, and afraid!" What! a Senator of the United States anxious about a million of Chinese twenty-five or thirty years from now absorbed in that mighty one hundred millions which will then compose our population! The Senator is not in earnest; he cannot be. He was certainly excited in speech, if I may judge from manner; but I really believe, that, in quiet thought reviewing this whole question, he will see that he has hastily taken counsel of fear rather than of reason. Let the Senator put trust in the Republic, and those ideas which are its strength and glory.

The Senator from Oregon wound up another passage by charging me and those who voted with me, particu-

larly myself, with an intention, or with conduct calculated, — I quote now his own words, — "to put the destinies of this nation into the hands of Joss-worshippers." Sir, that is a strong, pungent phrase; but is it true? Who here proposes any such thing? How can Joss-worshippers obtain control of the destinies of this nation? Will any Senator be good enough to tell me? By what hocus-pocus, by what necromancy, by what heathen magic will these Joss-worshippers obtain the great ascendency? Why, Sir, it is to disparage this Republic of ours, it is to belittle it, when you imagine any such thing. The peril exists only in imagination; it is an illusion, not a reality.

Then the Senator proceeded to denounce the Chinese as Imperialists and Pagans. Pagans perhaps, — though Senators who have ever looked into those books which have done so much for the Chinese mind will hesitate before they use harsh language in speaking of their belief. Has any Senator read the system of Confucius, uttered before that of the Saviour, and yet containing truths marvellously in harmony with those which fell from his lips? Throughout this great, populous empire the truths of Confucius have been ever regarded as we regard our Scriptures. They are the lesson for the young and the old, and the rule for government and for rulers; they are full of teachings of virtue. And yet the Chinese are called Pagans! Imperialists they may be while they remain in China, for their ruler is an Emperor. But what are Frenchmen? Are they not Imperialists? What are Russians? Are they not Imperialists? And yet will any Senator rise here and say that a Frenchman, that a Russian, shall not be admitted to naturalization? I take it not. Of course the French-

man, the Russian, and the Chinese will begin by renouncing Imperialism. Therefore it is perfectly idle to say that he is an Imperialist.

The Senator then blazed forth with a fulmination: "Let the people of Massachusetts know that her Senator is willing that Chinese should come to Massachusetts." Those were his words. Well, Sir, I think the people of Massachusetts know their Senator well enough to be assured that he is willing to have justice on this earth. Let the gates of Massachusetts be open always. God forbid that any system of exclusion should find place there, such as I have heard vindicated by the Senator from Oregon to-day! Be just to all men, and all will be safe. The people of Massachusetts are intelligent, generous, truthful; and they long to see the great ideas of the Republic established beyond change. They desire to see the Declaration of Independence no longer a promise, but a living letter. Therefore it is perfectly vain for the Senator to flash to Massachusetts that her Senator here is in favor of justice to the Chinese.

The Senator says again that I am inviting their competition. I make no invitation. That is not my office. What am I, Sir? I have no power, as I have no disposition, to speak any such invitation. My office is entirely different. I stand here on the ancient ways, — those ways that were laid down by the Fathers of the Republic, and where I wish forevermore to keep the Republic sure. I stand by the Declaration of Independence. Sir, these are no ideas of mine; I am speaking nothing from myself; I am only speaking from the history of my country, and from the great Declaration of the Fathers. That is all. I insist that at this day, at this stage of our history, the statutes of

the land shall be brought into harmony with the Constitution of the United States and the Declaration of Independence.

Now, Sir, I say that in those two great title-deeds of the Republic, — and that is the term by which I shall always designate them, — one interpreting the other, there is no single word which can sanction any exclusion on account of race or color.

Here allow me to mention an incident. You may remember, some of you, that during the Rebellion the question occurred, whether a colored officer of the Army was entitled to pay. The question came before President Lincoln, and, at my suggestion, was by him referred to the Attorney-General, at that time Mr. Bates, of Missouri. At the request of President Lincoln, I called on Mr. Bates, to confer with him on his opinion. I did not know then how strongly he inclined to what I will call the side of justice. So I began my conversation interrogatively, when he turned upon me, saying, "Will you allow me to ask you a question?" "Certainly," said I. Said he, "Mr. Senator, is there anything in the Constitution of the United States to prevent a negro from being President?" The question took me by surprise, coming from the Attorney-General. I replied, promptly, "Of course, Mr. Attorney, there is nothing." "Well, you are right; of course there is nothing in the Constitution to prevent a negro from being President; how, then, can there be anything to prevent a negro from being an officer, and receiving his pay as such?" I replied at once to the Attorney-General, that I thought he needed no suggestion from me on that question. I left him; and you may remember the opinion which followed shortly after, in which he affirmed that colored

officers were entitled to pay in the Army of the United States.[1]

Sir, there is nothing in the Constitution of the United States to prevent a negro from being President. On the contrary, that Constitution, interpreted as it must be by the Declaration of Independence, opens the way to all men without distinction of race or color. No, Sir, I am not the author of that doctrine. I had nothing to do with it. I find it, and now simply present it to the Senate. But, presenting it to the Senate, I insist that you shall see to it that the existing statutes are brought into conformity with the text of the Constitution, and with the Declaration of Independence: that is all. Strike out the word "white," which nowhere appears in the Constitution, and which is positively prohibited by the Declaration of Independence. That is what you are to do. So doing, you will complete the work of harmony.

The Senator from Kansas [Mr. POMEROY], in that speech, this evening, which to my mind was in many respects exquisite with most beautiful thought and with unanswerable argument, has taught the Senate, what I have said again and again in debates in this Chamber and in other places, that nothing can be settled which is not right. And so this question will never be settled until it is settled according to the great principles of justice. Vainly you try, you cannot succeed. And now, Sir, I do entreat Senators, — I hope they will pardon me; I mean to say only what it belongs to a Senator to say, — I do entreat Senators not to lose this precious opportunity of completing the harmony of the

[1] Case of Rev. Samuel Harrison, April 23, 1864: Official Opinions of the Attorneys-General, Vol. XI. pp. 37–43.

statutes of the land with the Constitution of the United States and the Declaration of Independence. Only in this way can you have peace. Let us have peace. Sir, I tell you how you may have it. Adopt the amendment which I have proposed, strike out the word "white," and the harmony will begin. The country will straightway accept the result. But reject that amendment, and you open at once the floodgates of controversy. From this time the debate will proceed, and what is said here will find its echoes and reverberations throughout the whole land and be returned to us from the Pacific coast, never to die out until the good cause prevails and all the promises of the Fathers are fulfilled.

Why, Sir, the words of the Declaration of Independence were not uttered in vain. Do you suppose them idle? Do you suppose them mere phrase or generality? No such thing. They are living words, by which this country is solemnly bound, and from which it can never escape until they are all fulfilled. Your statutes cannot contain any limitation which inflicts an indignity upon any portion of the human family.

Therefore do I entreat you, Senators, do not lose this precious opportunity. It comes to you now unexpectedly, perhaps; but what is there in life more golden than opportunity, whether to country, to community, or to individuals? It is what each of us covets, as he treads along the highway of the world. It is what we covet for our country. Here, Sir, you have golden opportunity. Use it. Use it wisely; use it bravely; use it so that you will secure peace, harmony, and reconciliation. Beautiful words! All these are within your power, if you now let it be known that you will stand by the Declaration to the end. You cannot suffer,

there can be no peril, no harm from any such dedication, — nothing but gain. All our institutions will be assured in proportion as you respect these great principles. Reconstruction will have new strength, when you show this homage to human nature.

And yet in the face of all this we are now asked to retreat, — to retrace the steps already taken, — to reconsider the vote that has been adopted, — and to confirm in the statutes those words which are there without any sanction in the Constitution, and in defiance of the Declaration of Independence. Sir, I will not believe that the Senate will do any such thing until the vote is recorded. But whatever may be the result, I give notice that I shall not cease my effort, — I shall continue it to the end. I am a soldier for the war; and until I see this great Declaration a living letter, I shall never intermit my endeavors. I shall go forward, and on every possible occasion I shall press the Senate to another vote. But I trust the Senate will not reconsider what they have done, but that they will settle this great question so that it shall never again disturb our debates.

Something I might say here on the "practical." Some Senator to-day has said something about being practical, taking to himself great credit on this account. Of course I who make this effort am not practical! I simply strive to bring the statutes into harmony with the Constitution and the Declaration of Independence; but that is not practical! Our fathers were not practical, when they put forth the great Declaration! Our fathers were not practical, when they established the Constitution without the word "white"! Of course I am not practical, because I humbly strive to imitate the

Fathers! Now, Sir, which is the more practical, — to allow this word to remain, breeding debate, controversy, strife, or at once to strike it out and complete our great work of Reconstruction? This is something to do. Tell me not that it is not practical. Is there anything in the bill that is equally practical? There are provisions, as I said this morning, for the safeguard of naturalization, which I value much; but how small in value, compared with the establishment of that great principle which fixes forevermore the fundamental idea of the Republic! Is not that practical? Why, Sir, the two cannot be compared. Both are important; but the first belongs to the class of policies or expedients, and not of principles. Adopt it, and you will help the machinery of naturalization, which I desire to do. But strike out the word "white" from your statutes, and you will do an act of justice whose influence will be immeasurable. The Republic will be exalted, and all our institutions will have new strength and security.

The motion for reconsideration prevailed, — Yeas 27, Nays 13.

The question now recurring on the adoption of the amendment, Mr. Sumner rose to speak again, — whereupon a debate sprang up as to his right to do so under the rules, finally terminated by the withdrawal of an appeal which had been taken from a decision of the President *pro tempore* affirming such right, when he was allowed to proceed. Beginning with some remarks upon this episode, Mr. Sumner said: —

THE appeal is withdrawn; but I believe I have the floor on the question. We have pending before us the Tax Bill, and during a day perhaps a dozen or twenty propositions are moved on that bill. According to the suggestion of the Senator from New York [Mr. CONKLING], one who had spoken on two of those propositions would be debarred from speaking on any of the others

during that day. As a Senator suggests to me, if a Senator had spoken about salt or tea, then he could not speak on sugar, or the income question, or anything else. I believe the rule of the Senate will not compel us to any such absurdity.

I do not like to take up the time of the Senate; and I should not speak now, except for my desire to bring home to the Senate once more the gravity of the question, and to introduce a new authority, which I had on my table, but which I forgot to use, when I was up before, — I mean the late Abraham Lincoln. He, too, had a great controversy in Illinois with a distinguished representative of the Democratic party (Mr. Douglas) on the Declaration of Independence. Let Mr. Douglas state his position in his own words. He said: —

"I believe that this Government of ours was founded on the white basis. I believe that it was established by white men, by men of European birth, or descended of European races, for the benefit of white men and their posterity in all time to come. I do not believe that it was the design or intention of the signers of the Declaration of Independence or the framers of the Constitution to include negroes, Indians, or other inferior races, with white men, as citizens." [1]

Then, again, in another place, Mr. Douglas said: —

"The Declaration of Independence only included the white people of the United States." [2]

How like what we have heard in this Chamber on Saturday and to-day! Senators have been unconsciously

[1] Speech at Bloomington, Ill., July 16, 1858: Political Debates between Hon. Abraham Lincoln and Hon. Stephen A. Douglas in the Campaign of 1858 in Illinois, (Columbus, 1860,) p. 35.

[2] Speech at Springfield, Ill., July 17, 1858: Political Debates, p. 52.

repeating these exploded arguments of the late Mr. Douglas.

How did Abraham Lincoln answer? In a speech at Springfield, while admitting that negroes are "not our equals in color," this eminent citizen, afterward President, thus spoke for the comprehensive humanity of the Declaration: —

"I adhere to the Declaration of Independence. If Judge Douglas and his friends are not willing to stand by it, let them come up and amend it. Let them make it read that all men are created equal except negroes. Let us have it decided whether the Declaration of Independence in this blessed year of 1858 shall be thus amended. In his construction of the Declaration last year, he said it only meant that Americans in America were equal to Englishmen in England. Then, when I pointed out to him that by that rule he excludes the Germans, the Irish, the Portuguese, and all the other people who have come amongst us since the Revolution, he reconstructs his construction. In his last speech he tells us it meant Europeans. I press him a little further, and ask if it meant to include the Russians in Asia; or does he mean to exclude that vast population from the principles of our Declaration of Independence? I expect ere long he will introduce another amendment to his definition. He is not at all particular. He is satisfied with anything which does not endanger the nationalizing of negro slavery. It may draw white men down, but it must not lift negroes up."[1]

Then, again, in another speech, made at Alton, the future President renewed his testimony as follows: —

"I assert that Judge Douglas and all his friends may search the whole records of the country, and it will be a mat-

[1] Speech at Springfield, Ill., July 17, 1858: Political Debates, p. 63.

ter of great astonishment to me if they shall be able to find that one human being three years ago had ever uttered the astounding sentiment that the term 'all men' in the Declaration did not include the negro. Do not let me be misunderstood. I know that more than three years ago there were men who, finding this assertion constantly in the way of their schemes to bring about the ascendency and perpetuation of Slavery, denied the truth of it. I know that Mr. Calhoun, and all the politicians of his school, denied the truth of the Declaration. I know that it ran along in the mouth of some Southern men for a period of years, ending at last in that shameful, though rather forcible, declaration of Pettit, of Indiana, upon the floor of the United States Senate, that the Declaration of Independence was in that respect 'a self-evident lie,' rather than a self-evident truth. But I say, with a perfect knowledge of all this hawking at the Declaration without directly attacking it, that three years ago there never had lived a man who had ventured to assail it in the sneaking way" —

That is not my language; it is the language of Abraham Lincoln —

"of pretending to believe it and then asserting it did not include the negro."[1]

Lifted by the great cause in which he was engaged, he appealed to his fellow-countrymen in tones of pathetic eloquence: —

"Think nothing of me," —

said he, afterward martyr, —

"take no thought for the political fate of any man whomsoever, but come back to the truths that are in the Declara-

[1] Speech at Alton, Ill., October 15, 1858: Political Debates, p. 225.

tion of Independence. You may do anything with me you choose, if you will but heed these sacred principles. You may not only defeat me for the Senate, but you may take me and put me to death. While pretending no indifference to earthly honors, I do claim to be actuated in this contest by something higher than an anxiety for office. I charge you to drop every paltry and insignificant thought for any man's success. It is nothing, I am nothing, Judge Douglas is nothing; but do not destroy that immortal emblem of humanity, the Declaration of American Independence."[1]

How apt are these words now! "Do not destroy that immortal emblem of humanity, the Declaration of American Independence."

Then, again, as he was on his way to Washington, stopping at Philadelphia to raise the flag of his country over the Hall of Independence, he uttered these pathetic, though unpremeditated words:—

"All the political sentiments I entertain have been drawn, so far as I have been able to draw them, from the sentiments which originated in, and were given to the world from, this Hall. I have never had a feeling, politically, that did not spring from the sentiments embodied in the Declaration of Independence.

. . . . .

"Now, my friends, can this country be saved upon that basis? If it can, I shall consider myself one of the happiest men in the world, if I can help to save it..... But if this country cannot be saved without giving up that principle, I was about to say I would rather be assassinated on this spot than surrender it."[2]

And yet that is the principle which the Senate is now about to give up,—that principle which Abraham

[1] Crosby's Life of Lincoln, p. 33. [2] Ibid., p. 86.

Lincoln said, rather than give up he would be assassinated on the spot.

Then, after adding that he had not expected to say a word, he repeated the consecration of his life, exclaiming, —

"I have said nothing but what I am willing to live by, and, if it be the pleasure of Almighty God, to die by." [1]

Sir, that is enough.

Mr. Sumner's amendment was rejected, — Yeas 14, Nays 30. At a later stage of the proceedings he renewed it, when it was again rejected, — Yeas 12, Nays 26.

At the same stages, an amendment in the following words, offered by Mr. Warner, of Alabama, —

"*And be it further enacted*, That the Naturalization Laws are hereby extended to aliens of African nativity and to persons of African descent," —

prevailed, first by Yeas 21, Nays 20, and then by Yeas 20, Nays 17, and was adopted. A subsequent amendment, by Mr. Trumbull, of Illinois, further extending these laws "to persons born in the Chinese Empire," was defeated, by Yeas 9, Nays 31. The bill as amended was thereupon passed, — Yeas 33, Nays 8, — Mr. Sumner voting in the affirmative.

[1] Crosby's Life of Lincoln, p. 87.

END OF VOLUME XIII.

Stanford Law Library
3 6105 06 130 250 6